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The Washington Monthly

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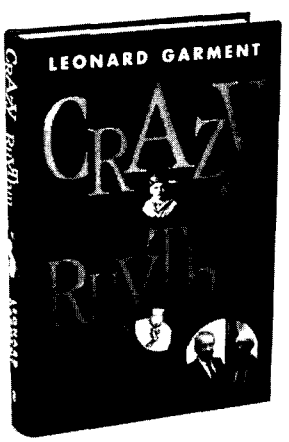

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Letters

Ode to Elliott

To be reading the *Monthly* and come upon this sentence: "... Elliott Abrams, once a key player in the Reagan administration's Central American policy and now head of an ethics think tank ..." ("Redefining Judaism," June 1997) is one of the most disorienting experiences I have ever had.

An *ethics* tank? Elliott Abrams, that bloody-handed liar? Elliott Abrams, who insulted the grieving parents of the young Americans murdered by the Contras? (He implied that the dead deserved their fate for contemptible crimes like teaching, building clinics, improving water supplies ...) The Elliott Abrams who never heard of a right-wing death squad he didn't like? He has ethics?

I would love to see a sampling of ethical precepts from the desk of Elliott Abrams: "Ask me no questions, maybe I'll tell you no lies"? "Kill only the politically unreliable people"? Or simply, "Do unto others"?

KAY REIS
Marion, MA

Hats Off

Just got your July/August issue, and I love your article on "The Real Class War." As one of America's "rich," I find it sad how little my class cares about giving back to America as much as it has given us. With President Clinton's latest tax cut proposal, we also see the sad state of liberalism in our country. Your magazine, however, is one of the lights in the tunnel, pointing out of the dark ages of ideological ignorance. I am proud to be a subscriber.

CARL GRANADOS
via e-mail

Up in Arms

The liberal logic on your July/August cover is not logical ("The Real Class War"). If I earn $100, it is my money. If the government takes 50 percent of it in taxes (which they do), they are taking *my* money! If they reduce the taxes to 40 percent, they are not giving me money—it is *already* mine. Conversely, if a poor person does not pay taxes and you give him a $500 tax-credit cash bonus, that *is* giving.

ROBERT YOUKER
Bethesda, MD

I thought we were finally beyond portraying any responsible tax cut as class warfare—the so-called rich attacking the poor and middle class. But the article by Michelle Cottle proves that unmitigated envy and distortion are not confined to the fever swamps of the professional income redistributionists.

I am the president of that seniors association who wrote the letter to *The Washington Times* demanding that Deputy Treasury Secretary Lawrence H. Summers be fired for his demeaning remark that those who want a repeal or reduction of the death tax are motivated by selfishness. As one of the high-paid Clinton henchmen, Summers cannot be expected to sympathize with Chester Thigpen, the Mississippi farmer who may be hindered in passing his tree farm to his relatives because of the estate tax, but obviously Thigpen does not draw any sympathy from the author, who only finds his plight "troubling." We find it *tragic* and want to do something about it: wipe out the federal estate tax once and for all!

Mr. Thigpen doesn't stand alone. Additional members of the middle class are being drawn and quartered by the estate tax, killing off the opportunity to pass on to their heirs farms, ranches, small businesses, etc. A fancy manipulation of figures cannot obscure the fact that those of us who deal with people in the real world are coming across an increasing number of these cases. If only one half of one percent of our population suffered from a tragic disease, should we ignore their plight?

JAMES L. MARTIN, PRESIDENT
THE 60 PLUS ASSOCIATION
Arlington, VA

Michelle Cottle replies:

On the contrary, I am entirely sympathetic to the plight of Chester Thigpen and small-business owners like him. In fact, my piece points out that Congress could selectively slash—or even repeal—the estate tax burden for such entrepreneurs with little effect on tax revenues, because these individuals represent such a small percentage of the total estate taxes collected. What I have no sympathy for, however, is estate-tax opponents' constantly trotting out farmers and family-business owners as a rationale for an across-the-board tax cut that would benefit the offspring of Steve Forbes far more than those of Chester Thigpen.

The Real Problem

In "The Real Class War," Michelle Cottle does an excellent job of describing the symptom, but overlooks the disease. We worry too much about who's paying more taxes than who, and not enough about what's causing the disparities in the first place.

Instead, we should attack the disease: our corrupt political system. Politicians dole out special tax breaks, subsidies, federal grants, and other government giveaways, all to benefit political contributors at the expense of the average taxpayer. When Congress passes tax cuts that favor the rich because "the rich pay more taxes," they omit that the rich also make more campaign contributions. In any other country, they'd call this bribery and payola. Only in America do we call it "political speech protected by the Constitution."

JACK E. LOHMAN
Milwaukee, WI

No One-Hit Wonder

I want to thank Michael Mayo for reviewing my book ("One School's Success," June 1997), which profiles a successful inner-city school for at-risk teens in Providence, Rhode Island. But I feel compelled to respond in case readers are left with the mistaken impression that the school is just a "lucky aberration" or that my book is just another feel-good "Triumphant Kid" story.

The key to the school is not only

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that it is successful, but that its program is affordable and exportable—regardless of who is in charge, who is teaching, or who is attending. In other words, this is a school that offers a great deal of hope for solving many of the problems with inner-city education today.

MICHAEL BROSNAN, AUTHOR
Against the Current

Mything the Point

Jason DeParle ("Why We Needed Welfare Reform," July/Aug. 1997) has a few valid points in his claim that David Zucchino's book seems to ratify the stereotypes that drive the political debate. But he falls short of "proving" the welfare myth true, and he seems to miss most of the weaknesses of the welfare reform bill.

He claims, for instance, that welfare recipients show little attachment to work. But studies have consistently shown that welfare recipients have about as high a level of aspiration as the nonpoor. The trouble is the lack of jobs for which they qualify. Studies in four cities found that only 5 to 10 percent of low-skilled job openings were available to applicants with few skills or work experience. In Washington, D.C., only 12 percent of the job vacancies in newspapers were jobs the poor might have had a chance to get, and nearly all were filled in a day or two.

True, as DeParle points out, some welfare recipients have just given up. But this is probably due to their frustration at continually being passed over for reasonable jobs, or enduring inadequate ones.

As for DeParle's assertion that, thanks to welfare reform, most states are now "awash in cash" and are likely to use this money to help rehabilitate the most hopeless welfare cases, this is certainly not happening in Texas. And I have seen little evidence that it is happening in most other states. We do know that General Assistance, funded by the states, is the first program to be cut. And that, even prior to the welfare reform bill, the assistance provided was insufficient. Since 1972 the real value of AFDC and food stamps has been reduced by 40 percent. And many poor were not being given any assistance at all.

The system our nation has set up to help these people has long been inadequate, but to make it even more so is hardly the solution to the problem.

C. EMORY BURTON
Dallas, TX

A Satisfied Customer

May I defend my HMO ("Tilting at Windmills," July/Aug. 1997), Secure Horizons, offered by Pacificare? I am 73, I live alone, and I've never had any insurance company take as much of an interest in my well-being as my HMO. Secure Horizons's doctors call you at home and ask how you are. They send a nurse out to check up on you after you've received emergency care in the hospital. I think that is pretty wonderful. Please do not attack all HMOs.

ANN L. PORTER
Santa Cruz, CA

Secret Danger

In Alexander Volokh's June article, "Carrots Over Sticks," he praises laws that give industrial polluters the right to keep environmental audits secret and to obtain immunity from prosecution. He claims these laws are needed to help companies achieve better compliance with environmental requirements by freeing them from the threat of punishment.

However, well-run companies have no need for these laws, and nothing to fear from disclosure of their audit information. New secrecy laws will only exacerbate the public's distrust of government and industry.

Furthermore, some state secrecy laws impose penalties and even imprisonment on persons who disclose privileged audit information. As a result, an employee who blows the whistle on his company's environmental crimes can go to jail for revealing the truth, while the company avoids any prosecution for concealing facts. This is a truly Orwellian concept of justice.

JIM HECKER
TRIAL LAWYERS FOR PUBLIC JUSTICE
Washington, DC

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Tilting at Windmills

BY CHARLES PETERS

Carrot Addiction • The Price of Pro Bono • Downward Devolution
All in the Family • New-Class Nuptials

OF ALL THE TOBACCO INDUSTRY'S attempts to defend itself, my favorite was supplied by Andrew Schindler, president of R.J. Reynolds, who told a plaintiff's lawyer that he didn't believe that tobacco was any more addictive than coffee or carrots.

"Carrot addiction?" asked the lawyer.

"Yes," replied Schindler. "There was British research on carrots."

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EQUALLY INCREDIBLE, FOR ME at least, was this recent headline in *The New York Times*: "GOP Panel Sees No Major Flaw in Fund-Raising Rules." In other words, they're outraged by what Bill Clinton and Al Gore have done in their campaign, but want to remain free to behave similarly.

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I HAVE MORE EVIDENCE FOR OUR campaign to get lawyers out of the practice of law, leaving behind the small minority that are both decent and dedicated to justice. It comes from an article by John Greenya in *The Washington Lawyer*, which is the official publication of the District of Columbia Bar and therefore cannot be accused, as some would say I can, of prejudice against practitioners. Of the local lawyers who left their firms to go into health care, teaching, computer software, and even songwriting, Greenya wrote: "All report solid satisfaction with their career move. In fact, with one slight exception, none of them has serious misgivings about leaving the practice of law, or plans to return."

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CONTINUING IN THE REALM OF the unbelievable, Vanessa Williams of *The Washington Post* reports: "If he were the least bit certain that Republican leaders of Congress had launched last week's raid on home rule in an effort to rout him from office, Mayor Marion Barry says he would step aside." If you believe that one, I've got a lovely bridge to sell you.

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ONE REASON I TRY to persuade lawyers to leave the law is to save their souls. Another is to save the rest of us from the harm they do as lawyers. Consider what the lawyers have been up to in the District of Columbia, where the number of auto accident-related lawsuits has risen 137 percent since 1985. During the same period, the number of auto accidents fell by 22 percent.

In other words, the GOP is outraged by what Bill Clinton and Al Gore have done in their campaign, but want to remain free to behave similarly.

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MY WIFE OFTEN ASKS ME HOW I can say I'm against violence and still be a pro football fan. Sometimes I have to admit she has a point. An example occurred here a few weeks ago when Michael Westbrook of the Redskins assaulted his teammate Stephen Davis during a practice session, striking him several times while Davis was down.

The incident, by the way, was taped by a television crew for a local station that doesn't carry pro football games. Interestingly, it was not taped by crews of the stations that do telecast the pros. George Michael, a sports reporter for one of those stations, explained that he had gotten access to the Redskins' practices by promising "we wouldn't use anything that would embarrass them."

Sports journalists, it appears, are just another species of the celebrity journalists who, as Joshua Wolf Shenk pointed out in these pages last year, too often purchase access with the promise, most often quietly implied instead of baldly explicit as it was here, of treatment that will not be too tough.

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ACCORDING TO *The Washington Post*'s Judith Havemann, the devolution of authority over welfare, which a year ago went from the federal to the state level, is now proceeding further down the political ladder as states hand off responsibilities to counties and other local jurisdictions. One problem with this is the same as with the public schools: The greatest need is concentrated in the poorest counties and localities, which often have the most inadequate resources.

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Another problem is that local welfare offices are often not very good. The New York City child welfare agency, even after a supposedly radical overhaul and reduction of caseload, was still found in a recent study to have closed one in every four cases where children were still at risk of abuse. In one in seven cases, welfare investigators actually interviewed children in the presence of their alleged abusers, according to Rachel L. Swarns of *The New York Times.*

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AND IF YOU HAVE DOUBTS about the federal civil service, don't assume local merit systems are better. Linda Blackford of the *Charleston (W.Va.) Gazette* looked at the county school system and found that merit principles are circumvented by administrators who decide who will get a job before it is advertised and then tailor the advertisment to fit the applicant they want. Over the years I have found this technique used to evade merit principles at every level of the civil service. But I must concede my fellow West Virginians bring a little local color to the practice:

Jack McClanahan, the county's deputy superintendent, is the brother of Paul, who is principal of a county high school, and the husband of Joyce, who works at a county high school, as does Joyce's sister, Joan. Joyce's sister-in-law, Marlene, teaches at a county elementary school, and her brother, Sam, is a retired junior high principal. Sam's wife, Kay, is principal of a county elementary school. Meanwhile, Jack McClanahan's brother Paul's wife, Kathy, teaches at a county junior high, and her first cousin Gary Hendricks works as food service director for the county schools.

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WHAT HAPPENED TO THE Republicans' drive to abolish the Department of Commerce? The answer is that they discovered how they could use the department's Economic Development Administration to supply pork for their states and districts. More than half of the fiscal 1998 projects singled out for EDA funds by the Senate Appropriations Committee, according to Russell Tisinger of *Congressional Quarterly*, are located in the home states of Republican members of the committee. Those divvying up the spoils include Judd Gregg, Pete Domenici, Ben Nighthorse Campbell, Conrad Burns, and Mitch McConnell. (For more on Senator McConnell see Michelle Cottle's article beginning on page 14.)

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AN ANCIENT CURSE OF BOTH the civil and military service has been inflated performance ratings. Everyone who isn't satisfactory is clearly outstanding. Raters are kind to those they rate in the hope that those who rate them will also act benignly. But some fantasize now and then about what they would say if they were candid. A few examples posted on the internet include, "He has the wisdom of youth, and the energy of old age," "He has carried out each and every one of his duties to his complete satisfaction," and "She sets low personal standards and then consistently fails to achieve them."

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"DID HE DO BETTER OR DID she, or was it an equal match?" That was the question being explored by the teenage sister of a friend I was visiting in the early '60s as she read aloud some of the wedding announcements in *The New York Times*. Back then, the issue was resolved on the basis of ancestry and badges of social class such as the right schools and clubs. But what was interesting was how often the marriage represented a match of equals. In other words, each party had struck a good bargain in terms of the social values of the time or at least they had enough regard for these values to want the match to appear equal when their friends read about it in *The New York Times.*

Since that long-ago Sunday morning, I have followed those *Times* wedding announcements with interest. Over the years, the standards have changed. The right clubs no longer count nearly as much as the right jobs. When the meritocratic elite that Nicholas Lemann wrote about in our last issue gets hitched, it's not the bride's or groom's bloodlines that are matched, it's their resumés. If a job was mentioned in the old days, it was only the groom's. Now the bride's is just as important to the equality of the bargain.

In recent years I've tried without success to persuade one of our young writers to look into this development. But I'm happy to report that *City Journal* has published an article entitled "New-Class Nuptials," in which its author, David Brooks, says: "The definining characteristic of the people mentioned on the [*Times*'s wedding] page ... is their profession. In our sample, 18 percent of the individuals are doctors, 23 percent are lawyers, 23 percent are in media or communications, and 28 percent are in finance of one sort or another."

What strikes Brooks is how few are entrepreneurs. The groom may work at Morgan Stanley and the bride at Sullivan and Cromwell, but neither is likely to have founded Acme Widget. (Computer-genius tycoons are the sole exception, probably based less on their risk-taking than on their ability to ace the SATs that are so crucial to the meritocracy.) What worries me just as much as the risk averseness is the meritocratic class's lack of interest in public service. They don't become public school teachers or work in government, unless it's a brief stopover at the SEC or a district

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attorney's office to get their career ticket punched. And, of course, you won't find a bride or groom who's in the military. Nor have I ever found a nurse in the group, although in the years I traveled around the world for the Peace Corps looking at volunteers perform practically every kind of job, the nurses impressed me most.

All of which raises the question: Does the meritocratic society recognize real merit? Shouldn't the teacher in Harlem, the air traffic controller, the ER nurse, the Marine lieutenant, and the person who creates a company that makes a good product and offers good jobs to its employees be recognized as at least equal to investment bankers and Wall Street lawyers? And, of course, just comparing resumés means such life essentials as common sense, kindness, and humor aren't being given the attention they deserve.

Recently, a Virginia woman stabbed her boyfriend in a fight over the TV remote. He wanted to watch the Chicago Bulls, and she wanted a movie.

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SPEAKING OF NURSES, their only problem back in the 1960s was that there was a ceiling on what they could do that was held firmly in place by doctors who didn't want competition. Today the situation has improved. There are now 71,000 nurse practitioners who perform many of the tasks that once belonged solely in the domain of the physician. But as we pointed out in June, we have far fewer nurse midwives than most countries. The number is only 7,400 midwives thanks to resistance by the ob-gyn doctors who want to keep the delivery business to themselves.

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AND SPEAKING OF RESISTING reform, the higher-education community is providing a case study of how to do it. Last year, congress members who were concerned about the ever-higher cost of higher education provided for a commission to be set up to investigate. But by the time the membership of the commission was announced, it was clear that the higher-education lobby had done its job. Eight of the 11 members are either university officials or lobbyists.

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I ADMIRED THE ACLU's effort to get women admitted to the Citadel. But did you see the amount its lawyers billed the Citadel: $6.15 million. The fee included the cost of a going-away party for an ACLU staffer who worked on the case and up to $450 an hour plus expenses for the ACLU's New York law firm, Shearman & Sterling. *Pro bono luris consultus.*

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WHEN I HEARD about Jesse Helms's refusal to hold hearings on William Weld's nomination, I wondered why he had the power to do that. I vaguely remembered that a couple of decades ago there was supposed to have been a reform that put an end to such arbitrary exercise of power by committee chairmen.

The Washington Post's Helen Dewar was similarly curious and consulted prominent authorities on the Senate's rules and history. The answer, she discovered, is that a chairman can be forced to hold meetings—in the case of the Senate Foreign Relations Committee, it would take a vote of all eight Democrats and at least two Republicans. The catch, according to Dewar, is that when the meeting is held, "the chairman can preside, control the agenda, and block a vote."

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I WISH HISTORY WOULD BE taught with as much emphasis on the lessons it teaches as on the stories it tells. The student should be able to see its relevance. An example of what I mean is a recent paper prepared by Alexander George and Jane Holl from the Carnegie Commission on Preventing Deadly Conflict, that focuses on the ignored warnings and missed opportunities that have led to wars. By showing, as George and Holl do, why and how we failed to act on warnings that North Korea would attack South Korea in 1950, or that Iraq would invade Kuwait in 1990, history becomes not just something we study, but something we can learn from.

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THE DIFFERENCES BETWEEN men and women, other than in physical equipment, seem to be shrinking. But a few linger on. My wife likes to shop more than I do. Control of the TV remote seems to be more vital to my inner well-being than to hers. But even that difference may be vanishing. Recently, an Arlington, Va., woman stabbed her boyfriend in a fight over the TV remote. According to *The Washington Times*, "He wanted to watch the Chicago Bulls and she wanted a movie."

Incidentally, the woman's defense when she was brought before the court was that it was just an accident: "He was lifting his hand as she lowered the knife." The argument has a certain appeal to me, but the judge didn't buy it, finding her guilty of misdemeanor assault and battery.

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WE HAVE LONG SUPPORTED drug legalization—not because

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we approve of drugs but because we want to get rid of the crime that is encouraged by the fact that drugs are illegal. An example is the corruption of airline employees, seaport workers, and customs officials who are bribed by racketeers to facilitate the smuggling of drugs. An even more troubling result of illegal drugs comes from a recent report in *The Washington Post* that "24,377 black men 18 to 35—or nearly 50 percent of the city's black male population in that age range—were in the District's criminal justice system from January through April." You don't have to be a criminologist to know that most of their offenses are drug related.

But while we're for legalization, we have no sympathy for those who intend it as a wink of approval for drug use. The Californians who are laughing as they use "medicinal" marijuana for fun are only strengthening the hand of the prohibitionists.

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LIKE SO MANY AMERICANS, I found myself rooting for the UPS workers during the strike. I'm sure this was partly because many of us feel the tide has run too strongly against labor in recent years. And almost everyone knows part-time workers are often used so employers can pay lower wages and avoid paying benefits. But the latter, at least, was an unfair rap against UPS. It does pay benefits to part-time workers.

Another fact about part-time work that was not noticed in much of the coverage is that most part-time workers want to work part time so they can also go to school or take care of their children. Or they're semiretired and want to keep their hand in while not having to work too many hours. R.A. Zaldivar of *Knight Ridder*, who did get this part of the story, reports, "Government figures show that four out of five people who work part time aren't interested in full-time employment." So the point is not that part-time work is in itself wrong, but that it should be fairly compensated and have decent benefits. And of course every effort should be made to give full-time work to that 20 percent of part-timers who want it.

What bothers me most about UPS is that it works its employees too hard. They dash in and out of those brown trucks so fast that they're practically breathless when they reach your door, and too often they're carrying staggering loads. Shouldn't the strike have been more about that? Sometimes strikes are about the wrong issues. Remember the air traffic controllers Reagan fired? Their big issue was wages when it should have been the safety risks caused by overwork at several major facilities.

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IN 1965, CONGRESS PASSED THE Highway Beautification Act. It was designed to restrain the excesses of the billboard industry. How then is the industry able to get away with clear-cutting trees—even though they are on public land—if they obstruct the view of a billboard? Because lobbyists got an amendment passed that allows for "vegetation control" by billboard owners.

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I'VE COMPLAINED BEFORE about Bill Clinton's indifference to the operation of the federal agencies he's supposed to oversee. The latest example comes from Bill McAllister of *The Washington Post*, who reports that "seven months into President Clinton's second term, about 30 percent of the top 470 political jobs in his administration remain unfilled." And that number doesn't even include the scores of vacant judgeships and ambassadorial positions that you no doubt have already heard about. But it does include

How to Reduce Crime

Criminals feel that if government can invade private property rights by taxation, they can invade property rights, too.

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such major jobs as deputy department heads.

These jobs are usually harder to fill as a president's second term approaches its end. So Clinton's delay in making appointments will become an increasingly serious problem as time passes.

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TWO HEADLINES THAT QUALIFY for our Why Haven't They Done That Before? department ran in *The New York Times* in recent months. One was "FAA Going Public on Airline Faults;" and the other, "EPA Is Pressing Plan to Publicize Pollution Data." Of course, the reason you haven't read about it before is that the airlines and the polluting industries didn't want the people to know what they were doing wrong, for the same reason you recently discovered that the meat industry is not eager to have its failings subject to the public spotlight. As Nurith Aizenman points out in her article beginning on page 24 of this issue, the main problem with regulation is not that it's too burdensome (although occasionally it is) but that it's too tender, too solicitous of the regulated industry. By the way, just in case you don't know, the federal government does not now have the authority to order a recall of bad meat. After the latest e-coli incident, Dan Glickman, the secretary of agriculture, asked Congress to give him that authority. Of course, his effort is being resisted by the American Meat Institute, which represents packers and processors.

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THE TEACHERS UNIONS ARE finally getting around to cleaning up their act. One example is the Montgomery County (Md.) Education Association which, according to *The Washington Post*'s Dan Beyers, no longer wants pay and job security issues to dominate contract talks. Instead, Beyers reports that "the teachers want to engage the school officials on numerous issues that affect the quality of classroom life, such as reducing class size, dealing with unruly students, and helping administrators root out poor teachers—even if they are union members."

The problem is the unions may be too late. There are a number of signs that they're in deep trouble. They are attacked in a new book, *Teachers Unions*, by Myron Lieberman. And a new poll shows that for the first time there is majority public support for vouchers. Those in favor have risen in just the last year from 49 to 55 percent.

More significantly, support is highest—at 62 percent—among blacks who are victims of the worst public schools, which are seldom located in suburban areas like Montgomery County, but are frequently found in the inner cities.

This magazine now supports vouchers for students in those inner cities where the schools are really bad. But unlike the conservatives, whose enthusiasm for vouchers is not accompanied by equal dedication to improving public education, our main aim continues to be to make public schools better. We favor vouchers for inner-city kids because we don't think they should continue to suffer from the snail's pace of reform.

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DID YOU KNOW THAT GEORGE Mitchell, the former senator from Maine, and Ann Richards, the former governor of Texas, who many of us have considered among the good guys of politics, lobbied for the tobacco industry to get a tax credit for the money the industry will have to pay in the national tobacco settlement? The passage of this tax credit indicates the tobacco gang still has a few tricks up its sleeve. One sign is its ability to turn decent politicians like Mitchell and Richards into hired guns. Another is the bizarre twist of chic that has attractive movie stars lighting up on screen and hip columnists like Christopher Hitchens, Andrew Ferguson, and Maureen Dowd making fun of tobacco opponents.

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IF YOU TREASURE QUIET SATURday and Sunday mornings, you will be delighted by the news that the push lawn mower is making a comeback. According to *The Wall Street Journal*, sales of the push mower are up 150 percent from five years ago. Maybe the fellow next door will join the trend and you'll be able to once again enjoy sleeping late on weekends instead of having the peace disturbed by the unlovely sound of his power mower. Of course, the trend I am most devoutly praying for is the return to simple rakes. I'm sure those leaf blowers have already damaged my hearing.

The *Monthly* is seeking applicants for an editor/reporter position. A sense of humor and willingness to work long hours for low pay are essential. Candidates should send a cover letter, resumé, and writing samples (not necessarily published, but showing fact-gathering and analytic ability) to:

"Editors," *The Washington Monthly*, 1611 Connecticut Ave., NW, Washington, D.C. 20009.

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Why Mitch McConnell Should Know Better

Campaign finance reform's No. 1 enemy need look no farther than his home state to see why money and politics don't mix

BY MICHELLE COTTLE

FORGET EVERYTHING YOU THINK YOU know about money in politics. The system is not broken. Sure, a few loopholes need to be closed to prevent violation of existing election laws (e.g., foreign money should not be financing U.S. political campaigns), but the current elections system and the level of money involved are not harming our democratic process. At least, such is the world according to Sen. Mitch McConnell, aka "the Darth Vader of campaign finance reform."

A firm believer in the Supreme Court's ruling that, in this country, money equals speech and must be protected as such, the junior senator from Kentucky has appointed himself protector-in-chief of the current fund-raising system. He argues that, if anything, Congress should *raise* the existing contribution limits to get even more "speech" into the election process. Pooh-poohing concerns over the outrageous amount already spent on campaigns, McConnell has, at various times, compared election spending to the price of yogurt, bubble gum, and McDonald's extra value meals. As for the undue influence such contributions provide special interest groups, Senator McConnell insists that legislators are above contamination by financial matters. As he told the National Press Club in March, "I think it is absurd on its face to make the suggestion that members are selling votes given the fact that the Supreme Court sanctioned limits on individual contributions and limits on PAC contributions." In other words, no self-respecting legislator would sell his or her soul for a measly $5,000 PAC donation. (For what dollar amount a legislator might consider selling his soul, McConnell does not say.)

Self-righteously cloaked in the First Amendment, McConnell has waged a high-profile battle against campaign finance reform. But unlike many of his colleagues, he is neither embarrassed nor apologetic about his commitment to the status quo. After leading a filibuster in the 103rd Congress against legislation advocating voluntary spending limits, public financing (which he disparages as "food stamps for politicians"), and lower limits on PAC contributions, McConnell declared the bill's failure "a victory for the Constitution." The proposed measure was, he said, "the kind of bill that gives gridlock a good name." Last year, with his party in the congressional driver's seat, McConnell had even less trouble killing reforms championed by Sens. John McCain and Russ Feingold. And as this year's Senate hearings on Bill and Al's campaign shenanigans goaded some 70 legislators into introducing their own reform bills, McConnell has amassed an unlikely cadre of anti-reform interests, ranging from the ACLU to the Christian Coalition, to lobby against any effort to slow the flow of money into the system. Not that McConnell has much to fear. As head of the National Republican Senatorial Committee (i.e., the guy in charge of fund-raising), McConnell is unlikely to be crossed on this issue by any GOP senator looking to be in his good graces come re-election time—a fact of which McConnell is well aware. In February, *National Journal* reported that McConnell had already summoned several of the Republican senators facing re-election this November to his office for a chat about his desire to block

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McCain-Feingold again this session.

But make no mistake, we're not just talking about campaign money here. Although election funding is McConnell's passion, his faith in the better angels of politicians' natures extends to the way successful candidates, once in office, interact with lobbyists and other petitioners. In 1994, he lobbied hard against the Senate proposal to bar legislators from accepting gifts, meals, travel, etc. from lobbyists. The bill ultimately passed, despite McConnell's heroic efforts—and without the substitute amendment he co-sponsored that would have weakened the reform, retaining many of the tasty perks legislators could accept.

Now, admittedly, different people have different opinions of human nature, and it may be that Mitch McConnell is a political Pollyanna. After all, it does seem cynical to assume that, just because a PAC contributes heavily to a particular party or a chummy lobbyist offers to spring for a few three-martini lunches, a politician would take a special interest in said contributor or lobbyist. It is entirely possible that, in Senator McConnell's experience, money has never proven to be much of a corrupting influence in politics.

The state senator assured Vaughan that his problems weren't anything that couldn't be fixed—for a hundred grand.

Hear that? It's the entire population of Kentucky laughing hysterically. Whatever his experience in Washington, Mitch McConnell surely has not so lost touch with his constituency that he has forgotten that, right around the time he was battling for election to his second term in the Senate, his home state was split wide open by one of the most outrageous political scandals of the decade.

Operation BOPTROT, as the attendant FBI investigation became known (for reasons to be explained later), began in 1990 when a disgruntled businessman complained to the feds that Kentucky lawmakers were taking money from horse racing interests in exchange for legislative favors. The case generated little national press, but when it was finally closed—five years and 21 indictments later—15 former and sitting Kentucky legislators had been snared, along with the governor's nephew, the state's top lobbyist, and the Jockeys' Guild. Charges ranged from extortion to racketeering to lying to the FBI. Some of the legislators involved had accepted campaign contributions in exchange for their influence, others had stooped to pocketing the cash outright. What all had in common was a willingness to put the desires of moneyed special interests above the public interest. And in all but a few cases, the sums in question were well below the level Senator McConnell dismisses as negligible in today's debate. Perhaps, as McConnell gears up to derail the latest push for political reform, a brief stroll down memory lane would help him recall just how little special interest cash is actually required to corrupt the system.

Let the Games Begin

It all started with a phone call.

On the afternoon of September 23, 1990, Kentucky Senate Majority Whip Helen Garrett dialed up Mr. M.L. Vaughan, the president and principal owner of Riverside Downs, a horse racing track located in the small northwest Kentucky town of Henderson. Far from a Sunday social call, the conversation focused on Vaughan's concerns that a 1988 state law was unfairly favoring a rival track at Riverside's expense. Horse racing is big business in Kentucky; and when racing folks talk, legislators usually listen. But having unsuccessfully petitioned, picketed, and filed suit against the general assembly to repeal the objectionable law—which even the state attorney general opposed as unconstitutional—Vaughan had begun to feel as if Kentucky lawmakers suffered from selective deafness where he was concerned.

After 11 years in the legislature, however, Sen. Helen Garrett knew how the system worked: A little financial incentive was often required to activate lawmakers' hearing. Garrett assured Vaughan that, although vexing, his problems weren't anything that couldn't be fixed—for a hundred grand. Not all of it would go to her, of course. As Vaughan later recalled, Garrett explained the various interests that would expect a share of the proceeds: $30,000 for the House, $40,000 for the Senate, and so on. It seems that, having been defeated in the May Democratic primary, Senator Garrett had plans to become a lobbyist when her term expired in December. But with the right incentive, she told Vaughan, Garrett would launch her

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lobbying career a bit early and champion the legislative changes Vaughan desired.

The suggestion that his business problems stemmed from a failure to grease the right palms did not sit well with Vaughan. The Florida insurance executive had taken a risk by sinking his money into a harness track—also known as a sulky track for the small, two-wheeled carriages, or sulkies, pulled during races. Harness racing doesn't enjoy the prominence—or the financial success—of thoroughbred racing, and not surprisingly, Riverside was struggling to compete with nearby thoroughbred track Ellis Park. Compounding Vaughan's problems, however, was the 1988 law granting Ellis Park first rights to all races simulcast in Henderson County. Simulcasting is the life blood of smaller race tracks in Kentucky, allowing them to televise and to conduct off-track betting on races occurring elsewhere in the state or nation. Simulcast dates, like live racing dates, are granted to individual tracks by the state racing commission. In areas where multiple tracks operated, the policy had traditionally been to split simulcast dates between the facilities. With the 1988 bill cutting Riverside out of the game, Vaughan's track was sliding steadily toward bankruptcy.

Frustrated over his futile attempts to change the law and unwilling to pay Garrett's recommended "fee," Vaughan contacted the FBI. In a flash, federal agents were swarming around his office, outlining plans for an investigation of corruption in the Kentucky legislature. When Vaughan made his return call to Garrett, the FBI was listening in. Reconsidering her earlier $100,000 estimate, Garrett said all she really needed was $2,000 in lobbying fees to take up Vaughan's cause. The FBI provided the funds, Vaughan wrote the check, and operation BOPTROT was off and running.

The FBI's original target was the general assembly's Business, Organization, and Professions Committees (the BOP in BOPTROT), which oversaw state laws regulating horse racing (the trot in BOPTROT). Kentucky racing interests were famous for their political largess, not only for the tens of thousand of dollars they contributed come election time but also for the lobbying perks they lavished on legislators. It's hardly surprising then that BOP Committee members took an active interest in state racing issues. In addition to the endless schmoozing that went on around the capital city of Frankfort, legislators would travel with racing representatives to industry conventions in Las Vegas, Arizona, and Florida. In February of 1988, for example, four lobbyists and seven lawmakers (along with the occasional girlfriend) jetted to Pomona Beach, Fla., for a Valentine's weekend filled with food, fun, and, of course, horse racing at the Pomona Park track. And just to ensure no one got lost while hopping from one party to the next, Ellis Park owner Roger Kumar thoughtfully provided limo service for the group during its stay. (By a happy coincidence, the following month, BOP Committee members drafted the controversial simulcasting bill that so benefited Ellis Park.)

Such out-of-town junkets gave racing representatives an invaluable opportunity to develop close working relationships with their legislative overseers—a situation of keen interest to federal investigators. Sure enough, when Vaughan, at the FBI's behest, approached outgoing Sen. John Hall about Riverside's troubles, the BOP Committee vice chairman encouraged Vaughan to attend a few industry conventions and get to know the other committee members. According to *The (Louisville) Courier-Journal*, Hall instructed, "You need to go out there and wine 'em and dine 'em and give 'em a couple hundred dollars apiece."

That December, at the annual Jockeys' Guild blowout in Vegas, Senator Hall went to work unofficially for Vaughan—and the FBI went to work on Hall. While hob-nobbing with BOP Committee members at the craps tables and the private parties, FBI operatives posing as Riverside representatives passed a number of bribes to legislators, ostensibly in return for help in blocking a "breed-to-breed" bill that would ban state harness tracks from simulcasting thoroughbred races. Hall accepted $4,850 from an operative, the majority of which he claims to have passed to other legislators. At least two House BOP Committee members accepted money as well—although they sold out for the bargain price of $400 each. (A dollar amount considerably below the $5,000 figure Mitch McConnell dismisses as a temptation.)

In early 1991 the FBI decided to "flip" John Hall, who had slipped smoothly from the Senate into the world of racing lobbyists. Summoned to a Louisville office building one day under the pretense of a meeting with Riverside officials, Hall found himself surrounded by FBI agents and members of the U.S. attorneys office, as well as surveillance photos, video tapes, and filing cabinets containing information on him and his family. Confronted with evidence that he had pocketed bribe money, Hall was given a choice: cooperate with the investigation or spend the next few decades in prison. Hall went with option A.

Despite the FBI's best efforts, however, Hall proved a flop in his attempts to draw former colleagues into investigators' nets. By mere chance, however, he became

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involved in snagging two of Operation BOPTROT's slipperiest fish: William McBee, a former BOP Committee chairman turned lobbyist, and John W. "Jay" Spurrier III, a member of the state harness racing commission and the capo of Kentucky lobbying (not to mention a close chum of disgraced U.S. Rep. Dan Rostenkowski). Hall, who worked with the two men on lobbying issues, was invited to help in their plans to fix an arbitration dispute for Riverside in exchange for a $50,000 payoff from the track. The details of the caper, as reported by local journalists such as Tom Loftus of *The Courier-Journal*, read like something out of a bad spy flick: Hall would handle the actual exchange of money, then cover the shady dealings by reporting the $50,000 to the IRS as lobbying income. In return for his troubles, he could keep $20,000 of the cash. The rest would be split between Spurrier, McBee, and Bruce Wilkinson, the nephew of then-Gov. Wallace Wilkinson and the governor's official adviser for the appointment of an arbitrator to Riverside's case. The FBI was ecstatic. The day of the payoff, agents wired Hall's briefcase with tracking and listening devices, then stuffed it full of cash—$30,000 worth of twenties that had been meticulously counted, photo-copied, and dusted with flourescent powder. Hall then headed out to meet McBee at Flynn's restaurant and bar, the official hangout of every legislator and lobbyist in Frankfort.

The legislator insisted he had always intended to return the illegal contribution—it had simply slipped his mind.

Hall received instructions to leave the money in room 418 of the Holiday Inn Capital Plaza. Hall later recalled that, on the drive to and while inside the hotel, he was totally convinced he was about to be killed. After searching the room to make sure he was alone, Hall abandoned his cargo and high-tailed it out of the hotel. Spurrier, who'd been hiding in the next room, then lugged the payoff money back to his condo. There, he and Bruce Wilkinson counted out their shares, for the listening pleasure of an FBI surveillance team. When the men exited the building, Spurrier was tailed and later confronted by investigators. Like Hall, he was less than thrilled by the prospect of acquiring intimate knowledge of the federal prison system. Instead, Spurrier too accepted the FBI's invitation to join the team.

With the state's most trusted lobbyist onboard, BOPTROT's ripples began to spread. Spurrier continued working with McBee on behalf of Riverside Downs, encouraging lawmakers to kill the breed-to-breed bill. To this end, McBee doled out $1,000 incentives to selected legislators, including $2,000 to his successor as House BOP chairman. The FBI also videotaped McBee slipping longtime House Speaker Don Blandford a "thank you" $500 for the speaker's help in blocking the bill (which was never actually introduced during the session). The speaker's reaction to the gift: "Well bless your heart."

On March 30, 1992, the FBI overplayed its hand when it attempted to flip Bill McBee. The stunned lobbyist initially agreed to investigators' terms but later that night, deciding he couldn't incriminate his friends and colleagues, leaked the news to a couple of people at a party honoring him as Kentucky's Lobbyist of the Year. With its cover blown, the FBI decided to go public. On March 31, the next-to-last day of the legislative session, federal agents descended onto the floor of the state capitol, interviewing legislators and handing out subpoenas for travel and campaign finance records. The undercover phase of BOPTROT was officially over.

The Bigger Picture

Lest horse racing come across as a uniquely corrupting force in this story, it bears mentioning that investigators uncovered monkey business throughout the legislature. For instance, two senators pleaded guilty to accepting illegal campaign contributions from lobbyists for Humana Inc. in exchange for their votes on a bill favored by the health-care giant. (One of the senators insisted he had always intended to return the contribution but that it had simply slipped his mind.) Similarly, a member of the Senate Banking Committee was convicted of conspiracy and attempted extortion for trying to recoup money he said had been promised him for his vote on a 1984 bill loosening state banking regulations. The senator was caught on tape announcing to his alleged co-conspirators, "By God ... I need me a little grubstake."

Indeed, the corruption in the BOP Committees (subsequently renamed the Licensing and Occupations Committees) seems to have been more the rule than the exception. The problem wasn't with any par-

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ticular group of lawmakers or lobbyists so much as with the entire system. "It got to be considered just fine for the lobbyists and special interests to wine and dine members of the legislature," says Richard Beliles, the chairman of Kentucky Common Cause and head of the state's League of Women Voters. The various PACs had sunk huge amounts of money into the state campaign coffers over the years, notes Beliles, and "this whole [scandal] was about the dominance of money both in getting elected and then in getting the perks while you were in office."

In the pre-BOPTROT days, confirms Rep. Joe Clarke, the 27-year House veteran who succeeded Don Blandford as speaker following Blandford's indictment, lawmakers and lobbyists were practically living together in some cases, staying up all night playing cards in an atmosphere that resembled nothing so much as a college fraternity. Before tough ethics restrictions were passed in 1993, recalls Clarke, "legislators didn't have to pay for meals at all. There were two or three big parties every night [hosted by lobbying groups]. You could eat and drink more than you could ever dream of." Food, it seems, was an important part of the culture. At Flynn's restaurant and bar, lobbyists set up tabs and gave the management standing instructions to put legislators' meals on their tickets. "I had to quit going over there," recalls Clarke, "because you'd go eat your dinner or lunch, and owner Pete Flynn would come over and say, 'That's already been paid for.'" Nor were perks restricted to outside of the office. "There was always food in the House leadership offices," says Clarke, "and everybody knew the speaker wasn't buying the stuff. Lobbyists would bring in a big ham—Nobody thought anything of it."

Beliles confirms that such practices were everyday occurrences and legislators would have been offended at the suggestion they were doing anything improper. In fact, even after his fall from grace, Don Blandford maintained that he and his fellow indictees had done nothing wrong. In an interview from prison with NBC's Tom Brokaw, Blandford asserted, "There's nothing in the world wrong ... with a lobbyist giving gifts to legislators. It's done daily. ... And gifts are something that's a way of life."

Certainly, says Beliles, "many legislators took advantage of the situation but didn't do anything wrong. But gradually, legislators' loyalties went through a transformation and were transferred from the public interest and constituents to these special interests."

Even today, says state Rep. Tom Riner, most legislators don't believe that colleagues snared in the sting did anything wrong. "There's no real sense of contrition among members," says Riner. "There's more a sense that, 'Well, we're sorry the guys got caught and gave the rest of us a black eye.' They see it as a terrible situation, but from the standpoint of a public relations problem."

Kentucky residents, of course, viewed the problem differently. The public outcry immediately following BOPTROT drove legislators to pass sweeping campaign finance and ethics reforms. But as public pressure begins to subside, nostalgia for the good ol' days has legislators chipping away at the reforms. For example, the independent commission established in 1993 to investigate ethics complaints was effectively defanged during a subsequent session, with legislators taking back the power to appoint commission members themselves. Meanwhile, the contribution limits established by the campaign finance reforms were essentially quadrupled in this past session, reports Riner. "The legislature is becoming more and more friendly to lobbyists and to special interests," he adds sadly, "and I think we're sending a loud message to those groups that we're back in business."

Of course, fluid dealings between legislators and lobbyists are not unique to the Bluegrass state, and the harmful effects of special interest money on government can be observed everywhere from Sacramento to Austin to Washington, D.C. The names, dates, and down-home particulars of the situation may change, but the lesson remains the same: Money and politics don't mix. Despite what Mitch McConnell might have us believe, the idea that big money—and sometimes even small money—can corrupt our democratic process is not alarmist hogwash. And the desire to overhaul the current system, is not, as Senator McConnell has so patriotically put it, "some liberal trying to take away your First Amendment right to free speech." Until we reject this absurd notion that money in politics is not only acceptable but desirable, legislators will continue to subordinate the best interests of their constituencies to their own career goals (i.e., the best interests of major funders). Moreover, until the public gets angry enough to force lawmakers to fundamentally and permanently change the system, and the underlying culture, we shouldn't expect much improvement. And our nation's government will remain hostage to the vicious cycle of money in politics that plagues state and federal, Republican and Democratic, incumbent and insurgent politicians alike. ●

Research assistance provided by Samuel Seidel.

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Who's Who

By Susan Threadgill

If you're a female newsperson on television, you have to think about clothes. "You study the issues, you work on your delivery," **Susan Molinari** recently told *Vogue*, "but if red works ..."

Connie Chung wears her anchor jacket with double and triple shoulder pads. "The strong shoulder of a jacket is a symbol of authority and power," explains CNBC producer **Jack Reilly**.

The big question in Washington in August was "Who's minding the store?" At the EPA, both **Carol Browner** and her deputy, **Fred Hansen** were on vacation at the same time, as were Treasury's **Robert Rubin** and **Lawrence Summers**, and the National Security Council's **Sandy Berger** and **James Steinberg**.

Asked if the **Clintons** were in trouble, one of **Ken Starr**'s lawyers replied, according to *The Washington Times*'s **John McCaslin**, who has excellent Republican sources, "Perhaps not the president, but as for **Hillary** ... well, stay tuned."

The first presidential polls are in. Among the Democrats, **Al Gore** gets 53 percent to **Jesse Jackson**'s 9, **Dick Gephardt**'s 8, and **Bob Kerrey**'s 6. **George W. Bush** is the choice of 20 percent of the Republicans, **Jack Kemp** has 17, and **Dan Quayle**, 12.

Sidney Blumenthal has sued **Mark Drudge** for libel. His friends think he should also sue *The New Republic*, which, when Blumenthal recently joined the White House staff after having written favorably about the Clintons for several years, observed a tad tartly, "he'll get his back pay."

Maybe he should also sue *The New York Times*, which reported *The New Republic*'s words and added the following, as if it too had been said by *The New Republic*: "A beat's just an assignment but a slut is what you've become." The *Times* in a subsequent correction explained that the line had come not from *The New Republic*, but from a play written by Blumenthal. There was one more little problem: The word in the play was "slot," not "slut." Come to think of it, not only does Blumenthal have a suit against *The New Republic* and the *Times*—he won't need that back pay—but doesn't *The New Republic* have one against the *Times* too?

His lead in the polls is the good news for **Bush**. The bad news is that his campaign adviser, **Don Sipple**, has been accused of wife-beating by both of his ex-wives. During the 1996 presidential campaign, Sipple created the **Bob Dole** ads that declared, "It all comes down to values."

Back to **Ken Starr** for a moment. **G. Thomas Eisele**, a federal district court judge, has written a confidential opinion urging that Starr himself be investigated. Judge Eisele is not, as cynics might suspect, a Clinton appointee. He is a Republican who has been on the bench since 1970. But, according to **Neil Lewis** of *The New York Times*, Judge Eisele is worried about Starr's relationship with **Richard Mellon Scaife**, the conservative moneybags **Nurith Aizenman** wrote about in our July issue and who subsidizes the public affairs school at Pepperdine University that will provide a home for Starr when he finishes his work as Whitewater prosecutor.

The only physician in the Senate is **Bill Frist** of Tennessee. Many of his colleagues are said to rely on him for advice on health issues. They may be interested to learn that, according to **Alice Love** of *Associated Press*, Frist owns at least $9 million worth of stock in Columbia-HCA, the company that is accused of overbilling Medicare. Three of its top executives have been indicted.

The closest facsimile to a smoking gun that we've encountered in all the stories about the White House fundraising scandal is a short item by **Michael Weisskopf** in *Time*'s "Notebook" section. "Clinton scrawled an FYI note to **[Mack] McLarty**, enclosing a newspaper article on Enron Corp. and the vicissitudes of its $3 billion

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power plant in India. McLarty then reached out to Enron's chairman, **Ken Lay**, and over the next nine months, closely monitored the project with the U.S. ambassador to New Delhi, keeping Lay informed of the administration's efforts." The less than clearly coincidental result: a $100,000 contribution from Enron to the Democrats, four days before India gave final approval to the project.

One of the pictures that will dominate our memories of the summer of 1997 is the angelic look on **Haley Barbour**'s face as he testified that he wasn't the least suspicious as he sat on the yacht owned by a Hong Kong company that was supplying the collateral for a bank loan to the National Policy Forum that wound up in the coffers of the Republican party and was used in the 1996 election. How could he have known that the Republicans were using foreign money just like the naughty Democrats! There was evidence that Barbour had been advised that money from Hong Kong was foreign and therefore illegal. But Barbour said he "did not recall" the advice. As for the National Policy Forum that Barbour said is an independent think tank, the forum's former president said, when he resigned in 1994, that any distinction between the Forum and the Republican party was a "fiction."

Another eyebrow-raiser from the White House is **Bill Clinton**'s appointment of **Dennis DeConcini** to the board of directors of Freddie Mac, the federal mortgage corporation. The former senator from Arizona was, in the words of *The Wall Street Journal*, "the ringleader of the Keating Five," the senators whose lobbying on behalf of **Charles Keating** and Lincoln Savings and Loan earned them not only notoriety but an investigation by the Senate Ethics Committee.

The ideological signals from the White House are confusing. **Paul Begala**'s appointment as suggested a turn to the left, but the planned naming of **Robert J. Shapiro**, who has long been associated with the Democratic Leadership Council, to a top job at Commerce, indicates that the center still holds sway.

Speaking of lobbying, you can recognize the art of a master in the team **Randy Fenninger** assembled on behalf of specialist physicians who opposed changes in Medicare reimbursement rules that could cost them billions. It included two influential former congressmen, Republican **Vin Weber** and Democrat **Tom Downey**, who could take care of the House of Representatives, and **Patrick Griffin**, who, as a former aide to **Bill Clinton** and a former Senate staffer, could take care of the White House and the Senate. Needless to say, Fenninger's team got what it wanted.

It has been reported that on a recent radio show **Mary Matalin** said society "panders to the poor" and that for the most part, the poor are lazy, don't work as hard as we do, and aren't as ambitious as we are. Does she say these things around the house! If so, how does **James Carville** reply? We can't help but wonder.

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The Case for More Regulation

If you thought ValuJet's deadly cargo was poorly regulated, wait till you hear what the trucks and trains are getting away with

BY NURITH C. AIZENMAN

IN MARCH OF 1996, ALL 1,700 RESIDENTS OF Weyauwega, Wisconsin skipped town for three weeks—involuntarily. The reason for their impromptu spring break: an 81-car train carrying propane and sodium hydroxide derailed and exploded just outside the city center, creating a toxic fire so dangerous the entire community had to be evacuated while authorities struggled to contain it. But the Weyauwegans should consider themselves lucky. In Chicago this past August, 19 people were treated for chemical exposure at area hospitals after the hose on a truck pumping sulfur trioxide into a holding tank broke and released a 50 foot high lethal cloud. And in California several years earlier, 700 people fell ill after a tanker-car full of metam sodium plunged into the Sacramento River, killing all water life within 40 miles and contaminating California's largest reservoir.

These events point to a disturbing trend: serious accidents involving the transport of hazardous materials, or "hazmats," on trucks and trains have become an almost daily occurrence. In 1995 alone, there were 12,712 incidents involving hazardous materials released from trucks and 1,330 from rail cars. But what's really remarkable about these cases is that they were not more disastrous. Considering the recent massive increase in the volume of hazardous materials streaming across our nation's highways and railroads, combined with the industry's cavalier attitude towards safety and the government's cross-your-fingers-and-hope-for-the-best approach to regulation, it's a wonder we haven't witnessed a truly devastating catastrophe. Environmentalists warn it's only a matter of time before we're treated to a tragedy on the scale of the 1984 accident in Bhopal, India—where 3,500 people were suffocated in their sleep by a 20-ton cloud of methyl isocyanate seeping from a Union Carbide plant.

That's not to say there haven't been lots of close calls. Last December, the Department of Transportation's Federal Railroad Administration (FRA) discovered that despite the fact that military bombs being carried aboard a Union Pacific train had broken through their containers and were protruding onto the floor of a flat car, the company had allowed the train to travel from Oklahoma to California through several major terminals without taking any corrective action. As one FRA official noted in an internal memo: "[Union Pacific] needs a big time wake up call.... The way we see it, if they can't take care of class A explosives, makes you wonder what they are doing with other HM [hazardous materials]."

And there are plenty of other hazardous materials to wonder about. Between 1990 and 1995, hazmat transport by rail increased 27 percent to almost 1.8 million cars a year, each one carrying a payload that makes the lethal cargo aboard ValuJet flight 592 look like a shipment of fire-retardant blankets. Pick your poison: there are toxic-by-inhalation chemicals like chlorine and hydrogen fluoride, which can roll across miles of countryside in ground-hugging clouds that burn your body tissue, fill your lungs with fluid and cause you to literally drown in your own juices. There are explosives like ammonium nitrate—mix that with a little fuel and it's Oklahoma City time. Then, of course, there are your run-of-the-mill flammables, like liquefied petroleum gas, or propane, which comprises the bulk of the roughly four billion tons of hazardous materials hauled across our highways every year, and which, when released, vaporizes into a volatile

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gas that can ignite into a jet flame if so much as a spark comes near. And finally, there's the mother of all hazmats, nuclear waste, which could become a lot more familiar if the government goes ahead with plans to open a temporary nuclear materials repository in Nevada. By as early as 1999, up to 100,000 shipments of highly radioactive spent fuel from reactors across the country could begin the long journey to the storage site by rail and truck—in containers whose crash worthiness has been tested almost exclusively through computer simulations. With all these goodies making their way from sea to shining sea, perhaps it's not surprising that even some chemical company executives are reaching for their gas masks. "It scares the living daylights out of me," confides one former DuPont official.

Dying for a Job

The ugly reality of our industrial advances and booming economy is that we need—or at least want—more and more products made from dangerous substances. Unless we drastically change our consumption habits, one way or another these hazardous materials are going to have to be lugged around the country. But surely our government and industries have taken steps to ensure that the vehicles hauling these toxins are piloted by specially trained experts—crack professionals, alert and ready for the worst, right? Try zombified novices, bleary-eyed and poorly prepared.

To start with, hazardous material transporters are dangerously overworked. At the railroads, the rise in hazardous shipments has been accompanied by large scale downsizing. According to a study by an environmental group called The Good Neighbor Project, between 1985 and 1995, Union Pacific, by far the nation's largest hazmat rail carrier, doubled the ratio of its car shipments to workers from 85:1 to 170:1. Freight trains once served by teams of 5 or 6 people are now left in the hands of one engineer and a conductor. This duo is expected to work for up to 12 hours, take 8 hours off (for eating, sleeping, bill paying, etc.), then come back for more. The length of their shifts is bad enough: It's hard to imagine staying focused on your favorite TV show for 12 hours straight, let alone an endless stretch of railroad track—especially as viewed from an overheated, deafeningly loud engine cabin. But to make matters worse, rail workers are generally scheduled without regard to the basic requirements of a normal sleep cycle. Thus an engineer who is happily tucked in bed at 3 a.m. on one morning, is just as likely to find himself at the head of a 70-car train at 3 a.m. on the next—having received no more than two hours advance notice. "I've been forced to go out when I was so exhausted I hallucinated," recalls one Norfolk Southern engineer; "I've seen things that weren't there, almost gone past signals I thought were one color when they were another."

Maybe that's what happened to the engineer of a Union Pacific train who was killed in July after he sped past a rail stop sign near Rossville, Kansas, and collided with an oncoming train. Hazardous materials aboard his train were burned in the crash, and Rossville's residents had to be evacuated. The collision was one of three fatal Union Pacific accidents since June that finally prompted the Federal Railroad Administration to launch an 80-man inspection of the rail company—the most extensive investigation in the agency's history. After a week of probing, the FRA declared itself shocked, shocked, to discover that everyone from dispatchers, to engineers, to yard workers, were being "worked to the bone." Yet for years rail workers' unions have complained about such problems; last spring the Brotherhood of Locomotive Engineers even tried to shut Union Pacific down with a strike over safety, but they were halted by a court order. Still, according to the FRA's spokesman Jim Gower, the FRA "wasn't really aware of the vastness of the problem."

But this was only the tip of the iceberg. The FRA also found that Union Pacific routinely violates the already onerous 12-hour work limit—often keeping workers on duty for up to 17 hours at a stretch. Topping it all off, the agency determined that the training many workers receive is grossly inadequate and in some cases nonexistent—with some employees ordered to operate sophisticated equipment they've never been taught to use.

Among the things a good training program might emphasize would be the importance of watching for smaller problems that could be the harbinger of bigger ones. But even if they were taught to do so, rail workers might be disinclined to report any trouble they find. Many rail companies reward managers with a cash bonus tied the safety record of the track under the manager's jurisdiction. CSX Transportation, for instance, has awarded a total of $4.5 million in company stock since 1995 under its "Take Stock in Safety" program. Sounds like a great incentive system, but the result, according to United Transportation Union's legislative director, J.M. Brunkenhoefer, is that many middle managers strongly discourage the rail workers they supervise from reporting accidents—threatening potential whistle blowers with either layoffs or "investigations" into the whistle blower's responsibility.

Of course, the railroads sometimes run into pesky FRA rules requiring that certain types of accidents be reported, for instance those in which a rail worker is injured seriously. No problem—the companies simply send workers to the doctor with a special note, like one

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from CSX that asks that "whenever possible, use of equally prudent NON-REPORTABLE treatment is encouraged in order to minimize reporting of less significant minor injuries to the Federal Railroad Administration." Among the "reportable" treatments doctors are urged to avoid: "issuing a prescription, injections, closing a wound with sutures, butterfly, staple or steristrip, application of immobilizing cast, sling or splint, ... [and] restriction of employee's work activity." To be sure, the letter assures doctors that "appropriate treatment should be based upon your professional medical judgment;" but the message from CSX management to the doctor and, more importantly, to its employees couldn't be more blunt: Don't Rock the Boat.

That message was apparently heard loud and clear by the team aboard a CSX train that sideswiped an Amtrak passenger car and caused a derailment near Arlington, Va., this past July. Twice during the train's two-hour journey, crews on passing trains radioed the CSX crew with the warning that one of its flatcars was leaning precariously. Nonetheless, the crew ignored the warning and continued forward because a CSX supervisor had already inspected the car and insisted there was no danger.

Highway to Hell

But intimidated, badly trained and dog-tired as they may be, rail workers are still the envy of truckers. That's because while truckers can only be legally required to drive a mere 10 hours a day, trucking companies routinely—and knowingly—put them on schedules that make a mockery of the law. Consider the timetable of 23-year-old Peter Conway, the driver of a semitrailer loaded with 9,200 gallons of propane headed east on I-287 through New York state in July of 1994. Some time earlier, Conway's truck had been side-lined by a breakdown for 10 hours. Like most truckers, he was being paid by the mile as opposed to the hour; so after his rig was fixed, Conway faced a Hobson's choice: make up the lost time or take a financial hit. He opted to press on. On July 27, Conway's truck drifted off the left shoulder of the highway near White Plains and struck the column of an overpass. The propane leaking from his truck's damaged tank ignited—propelling the container 300 feet through the air onto a nearby house, which was quickly engulfed in flames. Conway was killed, and 23 others were injured. Although Conway had falsified the log book in which he was legally required to enter his work time, federal investigators were able to determine that he had been driving almost continuously for over *35 hours*. Their unsurprising conclusion: Conway had dozed off at the wheel.

He's certainly not the first, nor the last, to have done so. A recent government study found that up to 40 percent of truck crashes were probably caused by fatigue. Another study determined that at least 58 percent of truckers had violated hours-of-service rules. In fact, log books are so routinely doctored that truckers have taken to calling them "comic books."

But even if he's awake, there's no guarantee the driver of that monster hazmat truck roaring up behind you on the highway is even marginally competent—or that his rig is remotely safe. Take the case of Willis Curry, a Washington D.C. trucker who, since 1988, has managed to amass 31 citations for such traffic violations as speeding, carrying overweight loads, disobeying red lights and ignoring railroad cross warnings. Back in January, the Department of Transportation's Federal Highway Administration (FHWA) informed Curry's employer of his record and he was promptly fired. But the FHWA waited until April to alert D.C. authorities that his license should be revoked. Two months later Curry, still the proud bearer of a D.C. license and now a driver for a local dump truck company, collided with the car of a young mother and her one-year-old son.

Police determined that the brakes on Curry's dump had failed. This should not have come as a surprise. Curry's vehicle gave a whole new meaning to the term "dump" truck. It had been cited for 28 mechanical safety violations in two random inspections last year. And during the first inspection the truck's wiring was so defective that when the brake pedal was pushed the windshield wipers starting going. On both occasions the truck had been ordered off the road for repairs.

But the story doesn't end there. After Curry's accident, no action was taken to investigate the dump's owner, or to revoke Curry's license. It wasn't until ten days later, when Curry made a routine request for a duplicate license, that a city clerk happened to notice his record and confiscated his license. And Curry quickly managed to win it back, with the proviso that he only drive between 4 a.m. and noon on weekdays. At 2 p.m. the very next week, Curry was once again behind the wheel when the brakes on his dump failed a second time, causing the 30-ton truck to veer out of control and roll over onto a car driven by a teenage honor student. The boy was killed instantly. It is small consolation that Curry's truck wasn't carrying anything more dangerous than sand. Next time we may not be so lucky.

It's hard to say which was the greater menace to society, Curry or his truck. And that's not unusual. On the rare occasions when the Department of Transportation does random roadside inspections, nearly one out of every three rigs they pull over is found to be either unsafe, driven by an unsafe trucker, or both.

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Danger Zone

Defective equipment is a problem with which rail workers are also all too familiar. A 1995 surprise inspection of a Union Pacific rail yard in Fort Worth, Texas, found that 37 percent of the rail cars there were faulty—over a third of them with brake problems. And according to Union Pacific itself, 12 percent of the 8,000 plus chemical tank cars it inspected last year turned up "exceptions" like poor positioning of the tops on the cars, or mislabeling of their contents. That wasn't news to rail employees; they say it's not uncommon to work on a train with up to eight "sleeper cars" whose contents, hazardous or otherwise, are unknown to them.

This is no minor inconvenience. Different hazardous materials pose different risks and, in the event of an accident, it's essential for emergency responders to know what they're dealing with. For instance, if an unsuspecting fireman unleashed a fire hose on an accident involving metam sodium, rather than dousing any flames, there's a good chance the water would react with the chemical to form a nasty mustard gas-like compound. Similarly, if an emergency crew allowed a small amount of water to drip over a spill of hydrogen peroxide, the heat generated by the subsequent chemical reaction could cause nearby fuel to erupt into a major inferno.

Just as frightening as the trains themselves are the tracks on which they travel. About 85 percent of rail transport occurs over "dark" areas where there is no automated signaling. Instead, engineers must rely on dispatchers to talk them through their journey. Yet, as the FRA recently "discovered," dispatchers are often unfamiliar with the tracks through which they are expected to guide a train—in many cases they haven't even traveled the route once. So perhaps it's not surprising that a June FRA inspection of Union Pacific found that 80 percent of dispatcher orders contained at least one error.

And even when there are signals along the track, they are not necessarily configured to maximize safety. In a 1993 overhaul of a stretch of railroad whose users include a Maryland commuter service line, the railroad's owner, CSX, did away with a large number of warning signals along the track. Under the new system, yellow "slow down" signals indicating that a red "stop" signal is soon too follow are now placed *before* some train stations even if the "stop" sign they are referring to lies way beyond the station. So engineers driving trains that make station stops must somehow remember to pull out of the station at a slow speed; the intermediate signals that would have reminded them about the abrupt stop signal coming up after the station are no longer there. It's hard to conceive of a more accident-prone system. Yet neither CSX nor the FRA so much as paused to consider the safety implications before installing it.

Three years after CSX put in the new system, the inevitable occurred. On a snowy night in February of 1996, the engineer of a Maryland commuter train forgot (or didn't notice) the yellow signal before the Kensington, Md., station and pulled out of the station at 60 miles an hour. By the time he saw the stop sign and slammed on the brakes it was too late. Moments later he smashed into the fuel tank of an oncoming Amtrak. Eleven people were killed in the crash and subsequent conflagration. Still, despite instituting some other safety changes, CSX has kept the risky signal system in place.

A Free Ride

But how does the industry get away with it? Where are all those government regulators conservatives are so fond of disparaging? Turns out they're not nearly as meddlesome as the GOP would have you think. A July study by the General Accounting Office (GAO)—which monitors federal agencies for Congress—found that in just one year, the number of safety inspections conducted by the FRA decreased by 23 percent. And between 1992 and 1995 the percentage of railroads inspected for hazardous materials safety by the FRA fell from 34 percent to 21 percent.

That's hardly surprising considering how depleted the FRA's forces are. "You've got 380 inspectors for over 1 million cars and 300,000 miles of track," notes the United Transportation Union's Brunkenhoefer. Compare that with the Federal Aviation Administration's 3,028 inspectors—132 for hazardous materials alone—and it's tough not to agree with Brunkenhoefer that "the FRA is stretched too thin." Last year, Representative James Oberstar, the ranking minority member of the House Transportation Committee, introduced a bill that would have doubled the number of inspectors. But the Republican leadership didn't even allow a hearing on it.

Oberstar plans to reintroduce his bill this fall. But he's unlikely to get much thanks from the FRA. The agency has long been criticized for failing to stand up to the railroads, but the current climate in Washington has the FRA positively cowed. Discussing the FRA's role with agency officials is an almost eerie experience—the party line they spout couldn't be more anti-regulatory if it had been drafted by Newt Gingrich: The lack of inspectors? "Not an issue," FRA spokesman Jim Gower hastens to assure; "We've streamlined and are able to do more with less." How? "By making use of the inspectors the railroads employ." The GAO is underwhelmed by the FRA's new approach. In its July report, the GAO expressed concern that the FRA leaves almost all oversight of bridge safety in the hands of railroad companies.

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But the FRA maintains there's no cause for alarm; it's all part of a new "cooperative" way of doing business that began under the Clinton administration. The idea is to move away from using violations and civil penalties as the primary means of obtaining compliance with the regulations. Instead, the agency relies on "partnerships" with the railroad companies. If you're wondering what that means, take a look at the way the FRA has responded to the results of its—admittedly laudable—massive investigation of Union Pacific. You might expect that the agency's discovery that rail employees are being dangerously overworked would prompt it to change the rules governing their schedule. How retro! "New regulations are not the answer," the FRA's Gower patiently explains. Instead, the FRA will simply ask Union Pacific to mend its ways: "After all, it's in their own interest." Union Pacific officials agree—pointing out that they're hiring an additional 2,600 employees this year. But just how much relief will those new hires be able to provide for the company's exhausted 54,000-strong work force? Officials like Barry Sweedler at the National Transportation Safety Board (NTSB)—the independent agency responsible for investigating accidents and making recommendations to transportation regulators—think the FRA is being naive. "What you have today is an industry that's willing to accept a certain number of collisions every year," observes Sweedler.

To be sure, over the years the FRA has introduced some important technical requirements that have made rail transport safer. For instance, it recently decreed that all train cars must be linked with special couplers to help prevent them from separating during derailments. For added protection, tanks carrying hazmats are required to be fitted with steel head shields, coated in thermal insulation, and equipped with special devices to keep their bottom outlets from being sheared off in the event of an accident. Unfortunately, the railroads don't have to fully comply with all these new regs until 2006.

Even many of the FRA-mandated innovations that are actually in use were required by the FRA only after fatal foot-dragging. That was the case with a backup braking system called a "two-way end-of-train device" that allows an engineer to use a radio signal to apply brakes from the back of his train if his locomotive brakes fail. The FRA did not mandate use of the devices on all trains traveling through mountainous terrain until February of 1996—seven years after the NTSB first recommended them, and only after a runaway train had derailed at the bottom of the steep Cajon Pass in California not once, but *twice*. Similarly, while the FRA has (after over a decade of urging by the NTSB) finally conceded the considerable potential of using satellite-based proximity warning systems to alert engineers, and even apply the brakes, when one train is speeding or about to collide with another, the agency is now merely helping the rail companies run pilot projects—rather than insisting that they install it on a timetable.

And there are still plenty of cheap and life-saving innovations out there that the FRA continues to ignore. Take the laser systems that could be used to alert trains when the track over vulnerable areas like bridges has been misaligned. Such misalignments have been the cause of some of the most horrific accidents in recent memory—like the 1993 Alabama derailment in which 47 people perished. Yet though cheap models of this system have been put forward, the FRA has no plans to require them. Heck, they still don't even mandate that engine cabins be equipped with radios!

The Department of Transportation's record on hazmat trucking is just as deplorable. As you may have gathered from the case of dump truck driver Willis Curry, enforcement of the law by the Department's Federal Highway Administration is laughable. A March study by the Department's Inspector General—a sort of in-house independent watchdog—found that in 1995, only 2.5 percent of trucking companies were reviewed by the Federal Highway Administration (FHWA) to see if they complied with safety rules. What's more, about two-thirds of the nation's interstate carriers have *never* been rated for safety. Most alarming, the Inspector General determined that 22 percent of trucking companies with high rates of on-the-road violations and accidents had never been rated for safety, and 42 percent had not been rated in the past two years.

What's going on? Part of the problem is that the 529 federal and state inspectors available to the FHWA are simply incapable of covering all 345,000 interstate trucking companies. But the Inspector General also found that FHWA inspectors were spending far too much time on less urgent activities like educational outreach. Furthermore, while the Department of Transportation does maintain a national database of driver and vehicle violations that it uses to identify high-risk targets for inspection, the criteria for determining who is high-risk puts too much weight on factors like how many passengers a vehicle carries, instead of how many times it has been pulled off the road for being unsafe. To make matters worse, violations of state and local traffic laws are often never entered into the database. Why? Because states are not actually required by the FHWA to transmit the information. Of course, states *are* required to pass on the results of federally-funded safety compliance reviews and random roadside inspections, but they usually fail to do so quickly. Even when they do, the FHWA

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takes its own sweet time—often waiting for over a year before entering the data into the system.

When the FHWA bothers to conduct inspections, it tends to favor the velvet-fist-in-the-velvet glove approach. According to the Inspector General, FHWA inspectors consistently underreport violations, and low-ball fines. For instance, the penalties for 81 carriers surveyed did not include over half of the major violations found during their inspection. But the FHWA had a ready explanation for this dismal performance: 'we're a regulatory agency, not an enforcement agency.'

The trucking companies clearly share that impression. To get a sense of how little they fear the FHWA, you need only consider that in the Inspector General's survey, over a third of the companies deemed unsatisfactory by FHWA inspectors had to be inspected and scolded two more times before they cleaned up their act. Moreover—and this is the clincher—most of these delinquent companies were allowed to keep their trucks on the road even while they continued to fail one inspection after another. To cite just one example, a Missouri hazardous materials carrier continued to operate without interruption despite the fact that it had failed two general inspections—and despite the fact that one out of every two of its trucks had to be pulled out of service when stopped for random inspections along the road. It's enough to drive longtime highway safety advocate Gerald Donaldson to distraction. "Words fail me on the extent of the FHWA's ineptness," he sighs.

Officials at the National Transportation Safety Board are just as infuriated. Apart from imploring the FHWA to enforce existing regulations, the board continues to urge the agency, and the Department of Transportation in general, to come up with better rules: like getting trucking companies to pay employees by the hour, lowering the maximum number of allowable consecutive driving hours, and introducing simple monitoring devices on trucks to ensure that the law is followed. Yet not only has the FHWA turned a deaf ear to these suggestions, the agency is actually contemplating the trucking industry's request to *raise* the limit on hours.

Among the other possible improvements that could make hazardous materials trucks safer that the Department of Transportation has chosen to ignore: anti-lock brakes, a better internal compartment system to prevent the liquid in tankers from violently sloshing around and causing the truck to roll over; technology to keep the top and bottom ports of tankers from springing a leak when such rollovers do occur; and steel head shields like those used to such great effect on train tank cars. Many of these changes have long been advocated by the NTSB based on its investigation of serious accidents. But, once again, the Department of Transportation simply buries its head in the sand.

Regulation Redeemed

If your blood pressure is rising at the thought of all this incompetence, just think of how the NTSB's Barry Sweedler must feel after 27 years of observing it. Sweedler gets a slight catch in his voice as he describes the downside of his job: "When we respond to a tragedy where people have lost their lives, and we invest a lot of time trying to figure out what needs to be done to see that it doesn't happen again, and then we make our recommendation, and nothing happens, and then we see the same accident happen over again—and over, and over again. That's what frustrates me the most."

However frustration is not going to save us from the ever-increasing volume of hazardous materials flowing through our communities. It's time to re-think the conventional wisdom that regulation is a bad word. In recent years, conservatives have largely succeeded in convincing us that regulators are our number one enemy, strangling businesses with yards of expensive and impractical red tape. And the conservative cause has actually been helped by many liberals—who are quick to defend whatever regulation exists, without bothering to check how well it's working. Meanwhile, the Department of Transportation has all too readily absorbed the mood in Washington, speaking proudly of its new "partnership" with trucking and rail companies, as if having good relations with those industries were the primary goal. It's not. The government's duty is to protect the public—and it is falling seriously short.

Of course, it's not hard to understand why the regulators have lost sight of their mission: Like most of us, they don't enjoy hearing complaints from the people they work with, and no one howls louder than the industries being regulated. But both the government and the public need to start greeting those protests with a hefty grain of salt. From the dangerous overworking of employees, to the appalling condition of their vehicles, to the lack of inspections and penalties for safety violations, to the failure to install new life-saving technologies, the troubles plaguing the transport of hazardous materials by train and truck provide a dramatic illustration of how the real problem can be not too *much* government regulation, but far too *little*. If you think this lesson only applies to trucks and trains, just consider what smarter and tougher regulation could have done for the folks aboard ValuJet flight 592. And by the way, how do you feel about that hamburger in your freezer?

Research assistance provided by Samuel Seidel.

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La Dolce Vita

The Supreme Court's relaxed work ethic

By Christina Alex

As jobs go, Supreme Court justice is not a bad gig. If you're the chief justice, you get chauffered to work in a stretch limo every morning. And even if you're just a regular Supreme, you're provided with an elegant three-room office suite—complete with fireplace and private bath. Want help decorating your digs? The National Gallery will happily loan you a few of its paintings. Feel like a little exercise? Head for the full-sized indoor basketball court—or join Justice Sandra Day O'Connor for the daily aerobics class she's arranged for an instructor to teach. Or how about a more extended break? No problem. Go ahead and take off July through September.

The Supreme Court Historical Society/Richard Strauss Smith

Not that life inside the Beltway is all that rough for members of the High Court. As a Supreme, you'll score front-row seats at important functions like the president's State of the Union address, complimentary membership at some of D.C.'s poshest clubs, and invitations to all the best parties. Fancy a bit of culture? Opera lovers Ruth Bader Ginsburg and Antonin Scalia got to be extras in the Washington Opera's production of "Ariadne auf Naxos."

A-list status also comes with its financial rewards. As one of the nine finest legal minds in the country, offers of lucrative speaking engagements—like the $17,374 lecture Justice Stephen Breyer gave at Harvard last year—will pile up on your desk. First class airfare to these affairs is usually included, and parking at National Airport is always free. And when you feel you've had enough of life in the fast lane, you can simply retire and continue to receive your full salary—$164,100 for associate justices and $171,500 for the chief.

Of course, the position is not all fun and games. Justices must sweat through some of the most vexing issues of our day, knowing full well that each of their decisions will have a lasting impact on the lives of millions of Americans. Given the heavy burden we ask them to carry, it once seemed fair to offer the justices a few fringe benefits in exchange. Only lately, the justices don't appear to be keeping up their end of the bargain. While the perks continue to mount, the professional load the justices are shouldering seems to be growing suspiciously lighter.

To start with, the Supreme Court's productivity has been in a free fall. Every year the court is asked to rule on many more cases than it can reasonably be expected to consider. But over the last 20 years, the number of petitions to the court has ballooned—from 2,300 in 1960 to 4,600 by 1970, to an all-time high of 8,100 in 1995. Court watchers initially worried that the justices would be overwhelmed in their efforts to hold constant the percentage of petitions accepted. Proposals for establishing a National Court of Appeals to ease the load were batted around. But the justices found their own solution: Far from worrying about the percentage of petitions they accept—or even trying to hold the actual number of cases steady—they have begun hearing even fewer cases than before. From 1950

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to the late 1980s the court took on an average of 150 cases a year—rendering opinions on about 130 of them. Last year they heard arguments for only 90 petitions and issued opinions on a mere 80—that's about 1 percent of the cases in the docket, and a far cry from the 1950s, when the court heard arguments for about 10 percent of the cases before them. In short, the chances of getting your case heard by the court are now only slightly better than those of winning the lottery. Before his retirement in 1993, Justice Byron White occasionally expressed concern over the shrinking caseload. Today's justices, however, show little embarassment about their underwhelming record.

A number of possible explanations exist for this less-than-ambitious schedule. It may simply be a question of changing culture. Most of today's justices were appointed by Reagan and Bush, making for a pretty conservative bunch. As a result, they're less partial to the activist, interventionist approach of their predecessors. Furthermore, since the vast majority of their colleagues on the lower courts were also appointed by Republicans, the justices generally tend to agree with lower court opinions and are disinclined to revisit them. Then again, maybe they're just lazy.

It certainly doesn't seem as if the lighter load is the product of the court's meticulous screening of the mountain of cases landing in its docket. In fact, what makes the justices' relative inactivity so distressing is that they appear to be allowing important cases to fall through the cracks. Take the reverse discrimination case involving affirmative action at the University of Texas Law School, brought to the court after an appeals court ruled in favor of white plaintiff Cheryl Hopwood. While acknowledging the importance of the questions

As Goes the Supreme Court...

In 1971, a jury in New York City was split 11 to 1 in favor of a robbery conviction, but the case was dismissed by the judge after only 12 hours of deliberation because he had another engagement. This enabled the robber to escape punishment because a second trial would have violated his constitutional rights. What was the other engagement? A trip to Europe.

I can imagine many of my readers saying, "That New York case was in 1971. Maybe the judge didn't consider his duties to be pressing, but haven't things changed since then? Aren't the courts now overworked?"

The answer is that a few big-city criminal courts did become clogged with drug cases in the '70s and '80s. And in civil courts around the country there was a substantial increase in the number of suits filed. But on the whole, most judges manage to continue to lead a soft life by minimizing the number of cases that are actually tried or heard on appeal.

On May 9, 1989, *Manhattan Lawyer* sent reporters into all 45 full-time courtrooms of the New York State Supreme Court felony division. They found that the average court was in session only four hours and 27 minutes a day. Sixty-two percent spent fewer than five hours in session; 42 percent started work after 10 a.m.. None was in session more than six hours and 35 minutes.

In Massachusetts, judges get six weeks' vacation a year in addition to sick leave, a week off for "personal" time, and three weeks' "educational" leave. Still they claim they are overworked. So in 1990, the *Boston Globe* looked into when these judges actually left the courthouse. Six judges were photographed making their exits. The exact times of departure were 3:33 p.m., 3:20 p.m., 2:35 p.m., 12:05 p.m., 12:01 p.m., and 11:10 a.m. One judge was described by the *Globe* as "leaving a courtroom so silent and empty that his court officer was able to lie down on a bench and nap the afternoon away."

Perhaps, you say, the judges were rushing home to write opinions in the privacy of their dens. Not very likely, since most of the judges covered in the *Globe* and *Manhattan Lawyer* stories were below the level where opinion writing is the main part of the job. Where opinion writing is central to the job, at the appellate level, we see the same relaxed approach that *Manhattan Lawyer* and the *Boston Globe* found in the lower courts. In 1989, the *Recorder*, a San Francisco legal newspaper, conducted a study of how long on average it took judges of the Ninth Circuit of the U.S. Court of Appeals to produce an opinion. The four hardest-working jurists took fewer than 100 days. But the average for all the judges was 147 days. Seven took more than 200, one 307.

Adapted from *How Washington Really Works* by Charles Peters.

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involved, the court chose to pass. To paraphrase the explanation given by Justices Ruth Bader Ginsburg and David Souter: right case, wrong issue. But was it? Similar cases were popping up all over the nation. Thus, according to William and Mary scholar Rodney Smolla, the court's refusal to consider the Hopwood case left admissions offices in legal limbo. Moreover, when the court finally did decide to address affirmative action, it chose a case whose implications were far narrower.

Of course, one can hardly blame the Supremes for overlooking important cases. While many citizens may assume that the difficult job of choosing cases is personally handled by the justices, in reality they tend to avoid this chore. After all, that's what clerks are for! Each justice hires up to four clerks a term—bright, ambitious, 20-something law school grads who are only too eager to put in the kind of hours needed to get their bosses' jobs done. Amy Kett, a graduate of Harvard Law who clerked for O'Connor in 1992, says she and her fellow clerks worked "as many hours as we could stay awake, often past midnight and on weekends." Prominent Washington attorney Paul Cappuccio recalls working 357 out of the 365 days he clerked for Scalia in the 1987 term, usually from 8 a.m. to 10 or 11 p.m. In exchange for their servitude, however, Supreme clerks wield a degree of power most of us only dream about: They decide which of the 7,000-odd petitions streaming across their desks to pass on to the justices. In 1982, Justice John Paul Stevens readily admitted that he reads only 20 percent of the cases petitioned to the court—the ones his clerks recommend.

With all this extra assistance, on top of a lighter caseload, you'd think the opinions the justices do render would be churned out of their marble palace like clockwork. But the court-iers prefer to wait until the last minute to finish the job. From a half to a third of the court's opinions are handed down in the last six weeks of the term. This past term, only six decisions were announced by December; 32 were not announced until June. Not surprisingly, the last month of spring is a famously hectic time at the court—even if you're a justice you may have to put in some late nights. All the more reason to start planning for that three-month summer break. ○

The Washington Monthly *Journalism Award*

AUGUST 1997

DAVID BURNHAM
The FBI: A Special Report
The Nation

Veteran investigative reporter David Burnham draws on a treasure trove of internal Justice Department data to deliver a precise and compelling picture of the misplaced priorities and shoddy work of one of the nation's most secretive agencies. Burnham's analysis demonstrates how the Bureau's quick-fix, high-profile crime fighting strategies allow corporate criminals to fall through the cracks. Meanwhile, FBI Director Louis Freeh continues to press Congress for more authority to look into the lives, and listen in on the phonelines, of American citizens.

JULIE MCCLURE
Handle With Care
(Lafayette, Ind.) Journal and Courier

This three-part series examines Shaken Infant Syndrome, a somewhat misleading name for what's been called "one of the grossest forms of child abuse" by the U.S. Advisory Board on Child Abuse and Neglect. In two months of research, including interviews with parents, child-care experts, police, and prosecutors, McClure discovered that at a time when increased public awareness and preventative education are sorely needed, the Indiana legislature cut funding for such efforts and killed a proposal to establish child fatality review teams that have successfully reduced instances of such abuse in other states.

THE MONTHLY JOURNALISM AWARD is presented each month to one or more newspaper, magazine, radio, or television stories (or series of stories) that demonstrate a commitment to the public interest. We are particularly interested in reporting that explains the successes and failures of government agencies at all levels and of other institutions such as the media, corporations, unions, and foundations that contribute to the existence or solution of public problems. Please send nominations (including two copies of the article or broadcast text) to The Washington Monthly Journalism Award, 1611 Connecticut Ave. NW, Washington, DC 20009. Nominations for stories run in September are due October 1.

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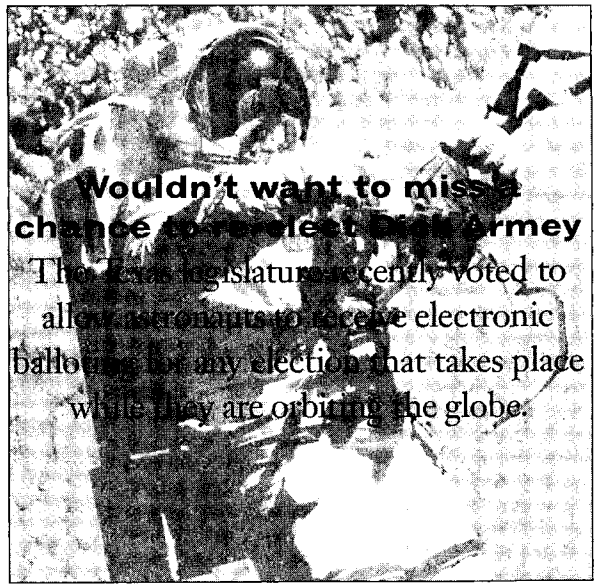
Tidbits & Outrages

And Jesse Helms is worried about the NEA?

North Carolina recently hosted the first annual Sleazefest, featuring such amusements as women from various rock groups leading g-string-clad male strippers around stage on leashes.

When a Volvo just isn't safe enough

Rap artist Snoop Doggy Dog recently purchased a custom-built armored van that can, in the words of its designer, "take direct hits from a military rifle with no harm to the occupants."



Wouldn't want to miss a chance to re-elect Bob Armey

The Texas legislature recently voted to allow astronauts to receive electronic balloting for any election that takes place while they are orbiting the globe.

You can bet he'll leave a better tip next time

A burglar in Oslo, Norway, was reported to the police by the taxi driver he called to come pick him up from the crime scene. Police had no trouble apprehending the thief, who used his real name to order the cab and had been driven directly home.

The Name says It All

The Church of the SubGenius gathered in upstate New York this summer to begin the countdown to what it claims will be the earth's final day, July 5, 1998.

Applied Math for the '90s

Six teachers in Dallas were recently suspended after giving their students a worksheet including questions such as, "Jerome wants to cut his half-pound of heroin to make 20 percent more profit. How many ounces of cut will he need?"

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Unwieldy and Irrelevant

Why is the military clinging to outdated and ineffective command structures?

BY ROBERT WORTH

WHEN A TRUCK BOMB EXPLODED outside the Khobar Towers military complex in Saudi Arabia on June 25, 1996, killing 19 American airmen and injuring hundreds more, it seemed like the kind of external threat that even a superpower cannot prepare for. But after more than a year of investigation and acrimony, the moral of Khobar Towers has been reversed so that it now seems to stand for the internal threat of turmoil and confusion in the armed services.

The immediate problem, according to the Defense Department report filed by retired Army Gen. Wayne Downing, was local Air Force commander Terryl Schwalier's failure to take proper anti-terrorism precautions, such as installing a Mylar shield on the front of the compound. But Downing also found that the chain of command at Khobar Towers had gone haywire. He concluded that "the Department of Defense must clarify command relationships ... to ensure that all commanders have the requisite authority to accomplish their assigned responsibilities." The commander in chief of CentCom (the regional command for the Middle East) rarely spent time in the field, and he chose to let the services wield the authority instead of exercising command from his headquarters in Riyadh. As a result, CentCom regressed into the same state of bureaucratic torpor that left it wide open to terrorist attack in 1983, when another truck bomb killed 241 Marines sleeping in their Beirut barracks.

So far, Secretary of Defense William Cohen's only response to Downing's findings has been to block Terryl Schwalier's promotion (which provoked Air Force Chief of Staff Ronald Fogleman to resign in anger). But a number of defense analysts and top brass believe that Khobar Towers is a warning sign that should not be ignored. They see it, not as an isolated event, but as an inevitable result of the military's failure to adapt its top-heavy command structure to the post-Cold War world.

Like all U.S. military compounds on foreign soil, Khobar Towers falls under the authority of a regional "unified" (multi-service) command. These commands reflect the Pentagon's view of the world as divided into "spheres of influence"—regional aspects of the global struggle to contain communism. Known as the Unified Command Plan, the system is a legacy of the 1947 National Security Act. There are commands corresponding to Europe and sub-Saharan Africa, the Pacific and Asia, South America, the continental U.S., and the Middle East/Africa, in addition to commands in charge of space, transportation, special operations, and nuclear weapons. Each of these commands has its own elaborate structure, known derisively to Pentagon officials as "Christmas trees," on which each service hangs its own confusing array of officers and units—despite the fact that several of these commands may be unnecessary.

All Chiefs and No Indians

The breakdown in accountability at Khobar Towers is just the latest tragic chapter in the U.S. military's fine history of bureaucratic dysfunction. Whatever its benefits, our multi-branched armed forces, each service with its own complex chain of command, often makes for less-than-efficient military operations (not to mention military spending as each branch vies for the biggest chunk of the funding pie). Periodic attempts have been made over the years to reduce the confusion and interservice rivalry among the groups—with limited success. The very formation of the Joint Chiefs of Staff in the wake of World War

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II was aimed at transcending service politics by imposing a central authority. During the war, Eisenhower and other top generals had seen how vital it was to maintain a clear and coordinated chain of command over the services. Yet, only a year after the National Security Act of 1947 established the JCS, Eisenhower warned his fellow four-stars that the Act provided little more than "a weak confederation of sovereign military units." Sadly, history has proven him right. Some of the most notorious military disasters of the post-WWII years—including countless episodes in Vietnam and the failed Desert One Iranian hostage rescue of 1980—were direct effects of service infighting.

Another major attempt to address the problem, this time by Congress, resulted in the Goldwater-Nichols reforms of 1986. Ironically, these reforms cut down the confusion during wartime by circumventing the JCS, stripping the service chiefs of all battle authority and clarifying the power of the secretary of defense to direct war efforts. The chairman of the Joint Chiefs was also granted power to independently advise the president and defense secretary, rather than simply reporting the "consensus" view of the chiefs (which had often proved useless in the past). These changes, forced by Congress on a kicking, screaming Pentagon, played a major role in U.S. success during the Gulf War. JCS Chairman Colin Powell could brief President Bush and Secretary of Defense Richard Cheney independently from the other service chiefs. And the chain of command for operations ran cleanly and directly from Cheney to Powell to the regional commander in charge of Desert Storm, Gen. Norman Schwarzkopf. As such, the Gulf War marked the first time that a regional commander could plan his attacks without worrying about "service equity" on the battlefield.

What General Schwarzkopf also learned from the Gulf War, however, is that the military still has a long way to go. While the chain of command had been smoothed out at the upper-most levels, Schwarzkopf was still dealing with service chiefs unaccustomed to thinking and operating as a unified force. Before the fighting started in January 1991, Schwarzkopf was forced to spend several months untangling the knot of service relationships at CentCom. According to one defense official, "Schwarzkopf had to individually negotiate with the service chiefs for his forces. What he told Powell afterwards was, 'This [system] doesn't work. It's broken.'"

Much of the problem seems to have been that Goldwater-Nichols clarified wartime relationships without sifting down to the level of training and readiness. During peacetime, the services are quick to reassert themselves, with painfully familiar results: too many overlapping commands and too little coordination. As a result, it takes a while for them to shift gears when going into combat. Schwarzkopf's frustrations were quickly forgotten in the afterglow of the American victory in the Gulf. But we may not have four months to prepare for the next war.

In the meantime, the services continue to fight for their independence. James Locher, one of the architects of the Goldwater-Nichols reforms, concluded in a 1996 article: "To date, parochial attitudes of the services and some geographic [commanders in chief], and weak support by the Joint Staff have hamstrung" efforts to create an integrated fighting force.

Efforts have also been made—with less than overwhelming success—to reduce the horrifying expense that interservice rivalry fosters when it comes to defense planning. Each year, the services throw more than a billion dollars at the nation's think tanks, which in turn produce four separate mountains of paper. As former JCS Chairman David C. Jones wrote, "The result of this tedious process is a defense budget derived primarily from the disparate desires of the individual services rather than from a well-integrated plan." In 1994, JCS Vice Chairman William J. Owens tried to streamline the process by investing the Joint Requirements Oversight Council (JROC) with centralized power to oversee weapons procurement planning. But the service chiefs dug in, and Joseph Ralston (Owens's successor) crippled JROC by adding another layer of bureaucracy—the Senior Review Group—that reinstalls service preferences.

Perhaps a unique shot at reform was missed in the early 1990s. Recognizing both the value and the shortcomings of Goldwater-Nichols as illustrated in the Gulf War, Colin Powell, perhaps the most powerful JCS chairman in history, decided that part of the answer lay in a radical simplification of the regional command structure. Planners in the Joint Staff office had looked at abolishing Southern, Central, and European commands as early as 1990, and Powell is said to have been with them. "He was about to take that on when he left office in '93," says Lawrence Korb, a former assistant secretary of defense, now a defense analyst at the Brookings Institution. As it happened, politics interfered—Powell was too busy dealing with Clinton's gays-in-the-military debacle. But he did manage to push through one major change before he retired. He altered one of the existing regional commands, the Atlantic Command, explicitly designating it the engine of progress toward "jointness," or inter-

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service cooperation. It would be responsible for all forces based in the continental United States, and it would train the troops for foreign crises with a newly energized ideal of "synergistic" joint operation. It was designed, in other words, to force a reluctant military to abide by Goldwater-Nichols. But the remodeled Atlantic Command was destined to be a thorn in the side of the services, and it required a strong leader to live up to its mission. A year later, in October 1994, it got one: Gen. John J. Sheehan.

A longtime advocate of greater jointness and efficiency among the services, Sheehan was the obvious choice to head the Atlantic Command. Today, he is the only active four-star calling for reform of the command structure, discussing its problem with an honesty that is unheard-of in the military. This move has not made him popular with the Pentagon. In fact, Sheehan's public insistence on serving the nation rather than the armed services is probably what lost him the chairmanship of the Joint Chiefs. Sheehan was a top candidate for the job last spring, until Shalikashvili and the other chiefs reportedly vetoed him. Sheehan "was a threat to all the chiefs," says Lawrence Korb, because he does not tolerate the log-rolling that has dominated JCS policy.

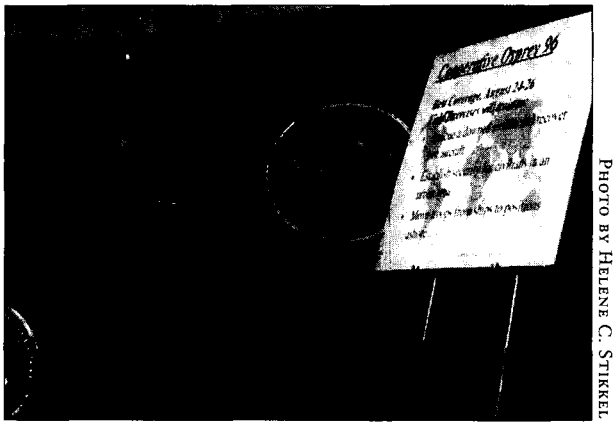

Photo by Helene C. Stikkel

Rebel With a Cause: Gen. John J. Sheehan

Sheehan claims that the U.S. military today is like the U.S. auto industry of the 1980s: too much overhead, too hierarchical, too much middle management, and too slow. He likes to invoke Northcote Parkinson's celebrated study of the British navy, which found that between 1939 and 1969 the fleet had shrunk by almost two thirds, while the number of desk officers and clerks per ship had risen from 37 to 295. The same thing is happening to the United States today, Sheehan claims. We have many more three-star generals and admirals now than we did at the end of World War II, despite a severely shrunken force.

This glut of officers may have more negative implications than just wasted defense dollars. For instance, the U.S. maintains a Southern Command to cover South America, despite the fact that Latin American history is one long lesson in the folly of applying military solutions to political problems. The Pentagon decided to retain SouthCom after the Cold War ended, according to a 1995 Pentagon document, "so that direct ties could be maintained with military officers who played dominant roles in many Latin American countries." No wonder Chile wants to buy so many F-16s.

The same Pentagon document also freely admits that altering the Unified Command Plan would "cut deeply into what the Services [see] as their traditional prerogatives." The services resist change not just because it would mean losing officers, but because it would pry them open to outside scrutiny and the possibility of further reform. At the very least, it might provoke a broader debate on how to organize a military whose traditional role—fighting major wars—is becoming increasingly marginal. As the economy goes global, the definition of security grows broader and less dependent on vast armies. For instance, says Sheehan, "you can put all of NATO into Bosnia and you won't solve the problem. Bosnia is about culture, Bosnia is about economics, Bosnia is about political engagement."

Sheehan's efforts notwithstanding, the tendency toward log-rolling by the JCS is so embedded, say some Pentagon observers, that the impulse for reform will have to come from Congress as it did in the 1980s. Admiral Owens has argued that we need Goldwater-Nichols II, a law that would cut back service priorities and increase jointness and efficiency in defense planning. In the meantime, one thing seems certain: The JCS will not offer any bold new ideas. Ralston's conservatism made him popular with the other chiefs, who picked him unanimously as their next leader last May (before they knew about his adultery problem). When Cohen then asked Sheehan to be vice chairman under Ralston, Sheehan refused and, according to Pentagon rumor, said that he did not respect Ralston and could not work with him. That kind of brashness didn't advance his cause with Cohen, who is not eager to test his credibility with the Pentagon.

Some defense pundits even argue that Clinton simply didn't want another powerful chairman after the example of Colin Powell, whose strong views

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about U.S. intervention proved an obstacle to Clinton's foreign policy in 1993. His popularity has been better served by the pliant Shalikashvili. "What Clinton really wants out of the military," says Eliot Cohen of the Nitze School for Advanced International Studies, "is for it not to make headlines or get him into trouble." In any case, the new chairman of the Joint Chiefs of Staff, Army Gen. Henry Shelton, is a "team builder" who will not provoke his fellow chiefs by rocking the well-stocked Pentagon boat, according to a recently-retired four-star who knows him well.

Man With a Mission

Yet Clinton's reluctance to challenge the military could backfire. He has been resting on laurels gained from the Dayton Accords for two years now, but those political gains have become extremely vulnerable. NATO's mission in Bosnia remains distressingly vague, and most observers agree that the scheduled withdrawal of NATO forces in June 1998 is likely to be followed by a relapse into war. Ironically, Clinton might be better served in the long run by Sheehan, who is notoriously blunt about what the military can and cannot achieve. Last summer at a conference on conflict prevention at the Aspen Institute, Sheehan listened to the consensus view—that America can intervene in foreign crises, but only when it will not cost much in blood or treasure—then announced: "I am sorry; that can't be done. If you want the U.S. military to go abroad, it will spend your money and it will put your sons and daughters in harm's way." That kind of honesty is precisely what Clinton has not received from the Pentagon, and it could serve him well if things heat up in Bosnia next summer.

Sheehan also believes that tough questions about the use of force cannot be divorced from the larger question that animates his critique of the defense establishment: "Where does the military fit in our concept of the policy process for international affairs?" So far, he says, no one has answered. But Sheehan has some ideas of his own, and they include proposals that might help Clinton to reap the "peace dividend" he promised so long ago. He would begin by cutting down unnecessary commands and reining in the services. Then he'd start in on the hardware, reducing army divisions, aircraft carriers, attack submarines, and some of the costly new weapons the services have been clamoring for, including the F-22 and the Joint Strike Fighter. Like a number of defense analysts and some retired four-stars (including William Owens), Sheehan believes that we should ready ourselves for the small-scale, high-tech conflicts that seem most likely for the next decades, instead of pouring more money into marginal advances on our current Cold War force. He prefers not to talk about budgets, but the Center for Defense Information, a D.C. think tank run by retired military officers that endorses many of Sheehan's ideas, claims that the U.S. could field a leaner, equally effective military for around $200 billion a year, instead of the current $266 billion.

But the Pentagon is singing a very different tune. Its latest manifesto, the Quadrennial Defense Review, steered clear of any serious cuts or changes and maintained all of the services' pet weapons platforms (at slightly reduced levels), projecting an annual budget of $250 billion for the next 20 years. Cohen has appointed a Task Force on Defense Reform, and one of its seven members is James Locher, an architect of Goldwater-Nichols and a strong advocate of further reform. But the task force's proposals, due out in November, may not find any champions. Congress is almost empty of old warriors like Bill Nichols, whose stubborn advocacy of defense reform in the '80s might not have gone anywhere if he hadn't lost a leg in World War II. As for Clinton—well, draft-dodging, adulterous Democrats don't exactly have a lot of clout with the Pentagon.

As such, defense reform may have to wait another four years. Meanwhile, Khobar Towers will soon be forgotten, but the danger it highlighted will linger. "Don't forget," says Sheehan, "the reason we beat most of our adversaries is because they're stupid and hierarchical. Saddam Hussein is not a genius. ... But one of these days we're going to run across someone who—from an organizational perspective—makes decisions faster than we do, and we're going to get our heads handed to us."

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Guilty Victims

How states' failure to separate the innocent from the guilty is costing the victims compensation program millions

BY JOSEPH HALLINAN

MORE THAN A DECADE AGO, when Congress established a fund to provide financial compensation to crime victims, it no doubt intended to aid society's least powerful members, especially abused women and children. It probably did not intend to help the likes of Hussein Barmil, a New York fugitive on the lam from the FBI. Or Dean Rossey, who gunned down a Milwaukee teenager. Or Tony Rigor, a twice-convicted California dope dealer with 17-inch biceps.

But it did. What's more, Barmil, Rossey, and Rigor are just a few of the hundreds, perhaps thousands, of convicts who receive money each year from the victims compensation program, set up in 1984 for the purpose of reimbursing victims with no insurance or savings. But there is nothing illegal here. No tricks, no fraud. Just an unpleasant truism: Victim and criminal are often one and the same person.

Victim advocates seldom mention this fact. Thugs, after all, don't make good poster children. Instead, in their testimony on Capitol Hill and in statehouses around the country, victim advocates almost universally portray their clients as innocents. Which is fine, except that all too often, a surprisingly small share of victims comp money goes to women and children, while significant amounts are shelled out to adolescent and adult males, many of whom have been injured in barroom brawls or street violence, some of whom have serious criminal records. Moreover, unless we tighten the current requirements under which compensation is granted, these not-so-innocent victims will continue collecting hundreds of thousands of dollars in government handouts—often at the expense of the very people the program was designed to assist.

JOSEPH HALLINAN *is a national correspondent with* Newhouse News Service *and a Harvard University Nieman Fellow. A version of this piece originally appeared on the* Newhouse *wire.*

Crime Does Pay

Meet victims compensation recipient Dean Rossey, a 19-year-old inmate at the Wisconsin state prison in Green Bay. Back in 1995, Rossey recalls, "I was smoking weed and drinking just about every day." He had dropped out of school, dropped out of Narcotics Anonymous, and his mom had kicked him out of their Milwaukee home. On the night of December 13, Rossey, two friends, and a fourth teenager, John Giese, were on a road trip to Illinois to buy some dope. Instead, they turned down a dead-end street and ordered Giese out of the car. They took his coat, the $1,850 they were going to use to buy the dope, a gold bracelet, his pager, and his stocking cap. "And after that," says Giese, "they just told me to turn around."

Rossey, according to court records, pointed the gun at the back of Giese's head. Giese remembers him saying, "This ain't nothing personal, it's just business." Then Rossey fired. Amazingly, Giese lived. But Rossey was the one who collected victim's comp. Five months earlier, Rossey and some friends had gotten into a brawl with a carload of gang members. "[One of them] just—POW—hit me right in my jaw," says Rossey. "That's when my jaw broke. And I went like that and I spit out my tooth in my hand." Wisconsin's victim comp program paid more than $14,000 to wire Rossey's jaw shut. It also paid for the two weeks of work he missed at Builder's Square.

Not a particularly sympathetic beneficiary of his state's victims comp program, Rossey is also not untypical. Milwaukee resident Jon Walecki lost a few teeth (but gained nearly $3,500) after he supposedly called another guy "a fag." Down the road in Madison, I found Toby Vale, a convict injured in a bar fight when he was

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so drunk he couldn't even remember who, or what, had hit him. He wound up with a broken leg—and $16,723.19 in victims comp money. When I pointed out these cases to the head of the state's compensation program, she said, "I can't believe they paid this."

But people who work with victims day to day know this goes on all the time. "Unfortunately, there are career victims just as there are career criminals, and they cross back and forth across the line," says Bobbie DeLaRoi, coordinator of the Office of Victim Witness Advocacy in Burlington County, N.J. "One day they might be a victim and the next day the offender."

Criminologists have recognized this pattern since at least 1987, when a research team led by University of Pennsylvania Professor Marvin Wolfgang found young offenders "being predator one day, prey the next." Wolfgang's studies also showed that, in adult years, the chance of being a victim of aggravated assault was more than three times as great if the respondents were also offenders. For robbery, the odds were between six and eight times as great.

Just how significant is the overlap between criminal and victim? No one knows. The Office for Victims of Crime at the Justice Department, which administers the federal dollars involved in the program, has never studied the issue. The agency's statistics are so paltry it cannot even tell how many of the compensated victims are men and how many are women; how many are black and how many white—nor does the program as established by Congress require states to keep records of or even to ask questions about an applicant's criminal past.

By my admittedly unscientific sampling (achieved by comparing state prison records with victims comp records in four states), I estimate about 8 percent of compensated victims have a recent criminal record. And this number in no way takes into account the barroom brawlers and street scrappers who have managed to keep their police records clean, if not their noses.

Criminal Negligence

About 40 percent of each state's victims comp money comes from the federal government (save for Nevada, which pays its own way) with essentially no strings attached—i.e., almost no restrictions on eligibility. Each state, in turn, covers the remaining costs of its program, then pays victims as much as it likes for nearly any crime it likes. (And considering where much of the money winds up may give you pause for thought about the wisdom of other federal programs that hand money over to the states without smart standards.) West Virginia, for example, compensates injured turkey hunters. "Turkey hunting's horrible here," says Cheryle M. Hall, clerk of the state Court of Claims, which administers the fund. "They wear camouflage and they nail each other." But since West Virginia considers negligent shooting to be a crime, the state treats hunters as victims.

All 50 states have guidelines under which victims are technically ineligible for aid if they contribute to their own victimhood. "If you're dealing drugs and you get shot, you're denied," asserts Dan Eddy, who heads the National Association of Crime Victim Compensation Boards. But often it's not that simple, says Jackie McCann Cleland, director of the compensation and assistance division of the federal program. Deciding whether a victim's conduct played a role in his injury, she explains, "is one of the most difficult challenges facing a comp program." And different states interpret their responsibilities differently. In Massachusetts, says Barbara Boden, the state's deputy program director, "the only thing we can do is deny [payment] for contribution [to the crime], and that's a pretty hard burden for us to prove. If they provoked a crime or something like that, it's difficult for us to track that down."

Ohio, on the other hand, bars victims comp to those with recent criminal histories. "This just seemed so logical to me," says state Rep. Ann Womer Benjamin, who co-sponsored a recent law to further tighten requirements. "It deals with a category of people who have committed offenses against society and says that they're not going to be able to get something back from society no matter what happens to them." At present, however, Ohio is one of only five states with such a policy.

Moreover, even with clear eligibility guidelines, separating the deserving from the undeserving can prove difficult. Many victims comp programs have tiny staffs; administrators say this makes it difficult, if not impossible, to do thorough background checks on applicants. Illinois, for instance, has just three full-time employees to process more than 4,000 cases a year; Georgia has just two.

Such personnel shortages may explain why, for instance, it took Wisconsin years to figure out the truth about Hussein Barmil, alias Nassar Alian, alias Miko Hussein. By the time it did, Barmil had collected more than $21,000 in medical payments—all while he was a fugitive or behind bars. Barmil's trail began in 1989 in New York City, where he jumped bail after being arrested for armed robbery. Four years later, he was arrested in Milwaukee and convicted of carrying a concealed weapon after he pulled a .38-caliber revolver during a street-corner argument. The following year he was arrested again, this time for a felony, after police found more than 10 pounds of pot in his motel room.

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In an effort to get the charge reduced to a misdemeanor, Barmil agreed to work undercover for police, who still did not know he was wanted in New York. Five months later, while trying to sell marijuana as an undercover informant, Barmil was shot. Although he was still wanted in New York and had been twice arrested for crimes committed in Wisconsin, Barmil was granted victims compensation. In November of 1995, while still in jail, he received $8,849.93 from the state of Wisconsin. It went on to pay thousands more, too, even though, as the checks were being written, Barmil would: a) escape from jail; b) be hunted down by the FBI in Florida; and c) be reincarcerated in Wisconsin. After reviewing his case, Gillian Nevers, who administers Wisconsin's program, told me, "I can't believe this."

Women and Children Last

Of course, many of the criminal/victims I spoke with (and, in fact, many of the people who handle their compensation payments) see nothing wrong with giving money to people who play both sides of the street. "You could be a felon for something real small—beating your girlfriend or something like that," says Tony Rigor, an ex-con from Los Angeles. "And to not allow you to have benefits, I don't think that's right," he says. "I done my time."

A twice-convicted dope dealer paroled from prison, Rigor once had 17-inch biceps and could bench-press 320 pounds. Today, he sits in a wheelchair in an apartment in East Los Angeles, a quadriplegic. He moves only with the aid of a pad he manipulates with his chin. Rigor, 30, was crippled by a single shot fired from a car during the Rodney King riots in 1992. He has received more than $40,000 from California's victims comp program, including a $36,000 customized van and a $2,000 mechanical bed.

The question of whether Rigor's criminal past should disqualify him from receiving government aid would not matter so much if the programs serving such victims were flush. But many programs are struggling, and when money goes to compensate gang bangers or drug dealers, this leaves less in the pool for truly innocent victims. "We just ran out of funds," complains Sandra Morrison of Mississippi's program. Last year, she explains, demand simply exceeded supply. Likewise, Dara Smith of the Montana program recalls that in 1996, "We broke the bank. ... We just couldn't pay any claims out in the month of June."

Although the lack of national statistics makes it hard to generalize, many administrators confirm that much of their money goes to pay men behaving badly. "Baseball bats—that's the weapon of choice in Newark or Camden," said Sharon Koch, an administrator in New Jersey, where assault payments eat up 66 cents of every victim dollar. In Idaho, says case manager Paige Fincher, "We have lots of bar fights. It's mostly, you know, if you're a man you do it with your fist and bite somebody's ear off." Assault payments in Idaho last year outnumbered sexual-crime payments 6-to-1.

The data that do exist suggest that the program is not fulfilling its original intent. In 1995, according to the most recent figures from the Department of Justice, compensation programs paid $247.6 million to 119,000 crime victims, with payments classified according to one of eight crime categories. That year, North Carolina paid not a dime to children who were physically (as opposed to sexually) abused, according to its annual federal report. Neither did Alabama, New York, or Louisiana. All told, 10 states reported no payments in 1995 on behalf of physically abused children. Women fared little better. Three states—Connecticut, Rhode Island, and West Virginia—reported issuing no aid whatsoever to victims of domestic violence, who are almost always women, while Louisiana reported paying just seven victims. Maryland paid 10. Illinois, including the entire Chicago area, paid only 22.

What's more, the average cost of payment runs higher where men are concerned, with the highest average payments going to cases of homicide and nonfamilial assault, two crimes in which the victims are traditionally overwhelmingly male. In 1995, the average payouts for these two categories were $2,837 and $2,752, respectively. By comparison, the average payment for adult sexual assault, whose victims are almost always women, was only $1,126. For child sexual abuse, it was $1,221. For "domestic assault/spouse abuse," $1,421.

Without a doubt, tens of thousands of innocent victims, many of them women and children, are helped each year by the victims comp programs. Since 1993, for instance, approximately $10,000 in payments have gone toward counseling and medical services for Amy Parker Hodgett and her two young children. "I think the program is very helpful and very essential," says Parker Hodgett, who was reportedly beaten and nearly killed by her ex-husband.

But $14,866.58 in compensation payments went to Dean Rossey, the teenager who shot John Giese in the back of the head. By the time the money arrived, however, Rossey had already begun serving his 15-year sentence. So, he says, his mom cashed the check and deposited some of the money into his prison bank account. "It worked out good," reports Rossey from prison. "It's a nice program. It helps out victims. It really does."

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Two Cheers for the Property Tax

Everyone hates it, but the property tax has some good attributes that make it indispensable

BY STEVEN GINSBERG

TO MOST AMERICANS, THE PROPERTY tax is about as revered as communism and as popular as a pro-lifer at a NOW rally. The reasons are not hard to understand. At first glance, the property tax system seems arbitrary, unreasonable, and just plain unfair. Every year property owners are hit with a large tax bill, demanding a nearly immediate lump-sum payment. In many jurisdictions, including our nation's capital, the government isn't even required to do you the courtesy of mailing that bill; if you miss the deadline, you must pay late fees whether you received your notice or not. Furthermore, as far as many homeowners are concerned, the manner by which both tax rates and individual property values are determined could not be more random if they were plucked out of a hat. In some cases this is because on-site assessments are only done infrequently—like every five to 10 years. This forces assessors to rely on unreliable estimation methods in the intervening years, such as setting the value of a property based on what neighboring real estate sold for that year, regardless of how the condition of those properties compares with that of the building being assessed. Thus a shack and a renovated loft in the same area can be valued at the same amount. In other communities, like those in California, property values are reassessed only when a building is sold. So a young family of four buying a home in San Francisco's pricey real estate market is slapped with an exorbitant tax bill, while the filthy-rich investment banker down the street is still paying the same amount in taxes as when he first purchased his home in 1979.

Property tax rates are just as varied. In each community, homeowners, businesses, and non-homestead residences (like apartment buildings) vie to lighten their portion of the tax load. Often, regardless of actual property values, whichever group happens to have the most lobbying clout gets a break, while the losing parties are left to shoulder more than their fair share of the burden. In Minnesota, for instance, between 1977 and 1990 homeowners were able to cut their share of property taxes from 45 to 36 percent, even as their share of real estate values rose from 51 to 56 percent. All of this financial finagling, of course, only strengthens taxpayers' conviction that the system is inherently unjust and highly politicized.

It's not surprising then that the property tax has earned such a bad rep among voters—and even less surprising that politicians have latched onto the issue. If you're looking to win votes, opposing the property tax is a no-brainer: It's like declaring that you're anti-drugs. Already, states as politically diverse as Oregon and New York have moved to defang the property tax.

But before we pop open the champagne to toast these developments, we need to take a close look at the upside of the property tax. (And, yes, there is a considerable one.) For although the list of the system's failures is long, people who advocate lowering or abolishing the tax outright are in many cases not considering the big picture.

For starters, contrary to popular belief, the property tax serves as a vital complement to other types of taxes. For instance, our income tax system may be geared to collect more from the affluent, but it also includes

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numerous loopholes that allow the rich to slip out of paying an amount of tax truly commensurate with their wealth. The property tax picks up where the income tax leaves off. Even if they manage to downplay their annual income, chances are, rich folks are going to buy property. They can't resist owning that summer home in Nantucket, that weekend home in the Hamptons, or that colonial mansion in Georgetown. After all, what's the point of having all that dough if you're not going to spend it? Thus the amount of property you own is as important an indicator of how well-off you are as the income you're officially pulling in each year.

Similarly, property taxes improve the accuracy with which the wealth of senior citizens—whose assets tend to dramatically outweigh their cash incomes—can be taxed. Without property taxes, many seniors would only be taxed on their fixed incomes—which often grossly underestimate how well-to-do they actually are. Now, we're not talking about the 70-year-old Brooklyn couple whose fixed income barely covers the taxes on the brownstone they bought 30 years ago. (An exemption can and should be made to ensure taxes don't force elderly people out of their homes.) But lots of seniors have invested in real estate other than their primary residences. Take the case of a retired speculator who bought property years ago and has watched gleefully as its value skyrocketed. He can enjoy the benefits of his good fortune long before he actually sells those investments. For instance, ownership of pricey real estate makes him eligible for large loans on which the interest is tax deductible. Furthermore, he can spend his fixed annual retirement income without a second thought—knowing that if he's ever low on funds, he can simply cash in his property. The property tax ensures that his tax bill reflects his good fortune. It's not surprising then, that the powerful AARP seniors lobby is pressuring states for an overhaul of the property tax system. And as baby boomers slide into their golden years, we can expect this branch of the anti-property tax lobby to grow even stronger.

Who Will Pick Up the Slack?

No doubt the rich and the elderly recognize that abolishing or lowering property taxes would deal a crushing blow to the schools in their communities—which is where the bulk of the tax's revenues go. But that's no skin off their noses: The rich can always send their kids to private school, and most old people's kids have already flown the nest. Of course, cash-strapped communities are unwilling to stand by as their schools are devastated and may raise other kinds of taxes—like sales taxes—to make up for lost revenue. But such taxes shift more of the burden onto the middle and lower classes, who must buy basic goods, even if they can't afford property.

If you have any doubts about the kind of fiscal havoc the elimination of the property tax can cause, you need only look at what's happened in the states that have "reformed" it. In Florida, the large and religiously anti-property tax seniors population has pushed lawmakers into reducing the property tax rates for some, and completely exempting others. The result is a maze of slimmed-down services and hidden "non-tax" fees that end up unfairly shackling the middle class. Worst of all, these alternative methods simply can't raise the same amount of revenue as the property taxes did. Consequently, notes Kurt Wenner, an economist with Florida TaxWatch, "the schools don't have much of a chance." Small wonder that Florida kids consistently place near the bottom in national reading and math tests, alongside much poorer states such as Louisiana.

In Texas, voters overwhelmingly approved Proposition 1, a ballot measure providing $1 billion in property tax "relief." The law's supporters in the legislature said they had to act "before there was a taxpayer revolt." Of course, almost immediately after the bill passed, school districts across the state announced that they would have to raise other taxes to make ends meet.

Taxpayers in Maine are looking to reduce their property tax bills by expanding the homestead exemption by $20,000, a measure that would rob the state of $200 million in funds. To compensate for the reduction in real estate taxes, Maine will be forced to extend its 6 percent sales tax to a wide range of everyday sources that directly hit middle-class wallets, including movie theaters, bowling alleys, beauticians, and barbers.

The situation is no different in New York; Governor Pataki, along with a slew of legislators, has vowed to cut property taxes. But as property taxes go down, local taxes, user fees, and college education prices continue to surge to make up the difference. The New York proposals are so unbalanced they prompted Patricia Woodworth, director of the budget for the State of New York, to complain to *Newsday* last April, "the benefits are going to go to those who have the greater monetary and financial interest in property holdings, which is not the average person. This plan is not truly tax relief."

But it is Oregon that gives us the most vivid example of what happens when property taxes are slashed. The northwestern state passed Measure 5 in 1990, putting a cap on all property tax increases. This, in turn, forced a massive transfer of state funds to support

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schools, which left the state with no choice but to cut spending on child welfare, prisons, and state police.

The bottom line: When property taxes are cut, other taxes must be raised to make up for lost revenues. And, as Chris Herbert, an economist at the Harvard-MIT Joint Center for Housing Studies, points out, the property tax is far more progressive than the alternatives. "Cutbacks in property tax have got to be made up and they're not going to be done by a more progressive tax," he says. "Localities can't get states to pick up the tab, so there's a big shift to user charges. You start getting taxes on trash collection and recreation facilities. With user fees things are becoming less progressive because you're paying as much as the next guy"—regardless of whether he happens to be a millionaire.

Mend It, Don't End It

But if we want to get the property tax off the political hit list, we need to address the legitimate problems with the current system. A handful of governments around the country have already started the ball rolling, instituting models that correct some of the more egregious flaws.

Washington state has perhaps the best system, having tackled the issue of favoritism head-on and passed a constitutional amendment declaring that statewide property tax rates must be uniform. For example, all real estate property is currently taxed at approximately 1.2 percent. In addition, all property tax revenues are split between the state and localities. This allows states to tap a deep vein of revenue and distribute it equitably. Under such a system, localities ultimately get to administer their portion of the pot, but the disparity between rich and poor districts is not so wide. "The real key is that the system is administered fairly," says Kriss Sjoblon, an economist at the Washington Research Council. "We have a good system of assessment that eliminates inequities, and the uniformity is vital. People should be treated fairly and folks shouldn't get deals."

Even jurisdictions with special needs can establish systems that are less arbitrary and that make sense to the average taxpayer. Pittsburgh, for instance, has initiated a "split-rate" system in an attempt to foster urban renewal. Property tax is really two separate taxes, one on land and one on building values; Pittsburgh simply separated these two values. The city then lowered the tax on buildings, giving property owners an incentive to maintain, build, and improve their properties, while at the same time increasing the levy on land values, thus discouraging land speculation and stemming urban sprawl. In Pittsburgh and other Pennsylvania cities where the "split-rate" is employed, 85 percent of homeowners pay less than they would with a flat rate, according to analysis by the *American Journal of Economics and Sociology*. The analysis also found that those who do pay more tend to be wealthier homeowners.

Most importantly, the system achieves its goal of encouraging economic growth in urban centers. A study conducted by University of Maryland economists Wallace Oates and Robert Schwab, comparing Pittsburgh to 14 other eastern cities during the decade before and the decade after Pittsburgh expanded its two-rate system, found that: "Pittsburgh had a 70.4 percent increase in the value of building permits, while the 14-city average decreased by 14.4 percent. These findings are especially remarkable when it is recalled that the city's basic industry—steel—was undergoing a severe crisis throughout the latter decade."

Aside from these more comprehensive systems, there are a number of basic steps localities could take to alter the perception of unfairness and ease the burden of property taxes:

- Use the property tax to pay for more than just schools. If seniors and the wealthy feel that the taxes support services they need, they will have reason to pause before directing their lobbying muscle against it.
- Raise the level of exemptions for people over 65. Property taxes do blindside some senior citizens, and there's no reason why they should have to move out of their lifelong homes because the market value of the house has gone up. A moderate raise in the exemption level would prevent poorer seniors from losing their homes, while still raising revenue from the wealthy.
- Stagger payments. A major reason property tax is so unpopular is that it's administered in huge chunks and people aren't allowed much time before hefty late fees kick in. Distributing the burden over four or more payments a year, with more advanced notice, would take some of the sting out of the bill.
- Upgrade technology. Set it up so people can pay electronically. It's a small thing, but it will make a difference. Most cities allow offenders to pay parking tickets with credit cards, there's no reason they can't do the same with property tax.

Rooting out favoritism and slipshod assessment methods will help make the tax palatable to the majority of citizens. They will no longer see the property tax as a mindless ogre coming to swallow up their hard-earned money. Instead, they will see it as the soundest way to make sure that everyone, especially the wealthy, contributes his share to ensure a high level of public services. In short, they will see it for what it is.

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LBJ vs. RFK: A Case of Mutual Contempt

How it all began

BY JEFF SHESOL

THE STORY UNFOLDS LIKE A GREEK tragedy played out on a nation's center stage. The protagonists are flawed, very human men, and their conflict illuminates not only their characters but their era. As historical figures, Lyndon Johnson and Robert Kennedy are forever entangled: One cannot fully comprehend either man without considering his relationship with the other. Their antagonism was, from the beginning, very personal, but it was also a complicated blend of politics, ideas, ambitions, and anxieties. Kennedy's challenge to Johnson says much about his own evolution as a public figure. LBJ's nervous response to the "Bobby problem" speaks volumes about the Johnson presidency. This became the defining relationship of their political lives.

Nor can one fully comprehend the 1960s without considering the Johnson-Kennedy feud. The issues that wrenched these two men apart—Vietnam, race, poverty—were at the heart of many personal political cleavages in those years of division. But Johnson and Kennedy were not, like student demonstrators or civil rights workers, peripheral anonymous figures. After John Kennedy's assassination, they were the political titans of the decade. They not only responded to issues but also shaped them. From the war in Vietnam to the war on poverty, from the "problem of the cities" to the collapse of the Democratic coalition, the major events of the '60s bear the imprint of this personal rivalry.

Politics, too, bore its mark. Johnson and Kennedy personalized, embodied, and crystallized growing rifts among Democrats. Their feud was, in large part, an ideological and general struggle for the soul of the Democratic Party and the future of American liberalism. Would liberals, like LBJ, continue to represent unions, federal paternalism, and globalism? Or would they move with RFK toward "a newer world"—a broader coalition, more decentralized decision making, and "empowerment" of the underprivileged? These tensions linger: the long shadow of the Johnson-Kennedy feud looms above today's clash between "Old" and "New" Democrats. Johnson and Kennedy's struggle for power, a focal point of the Democratic search for identity, is a lens through which to examine these larger divisions.

In 1961, after a White House dance, a group of officials gathered upstairs for a late-night batch of scrambled eggs. In the kitchen, Vice President Lyndon Johnson accosted Attorney General Robert Kennedy. "Bobby, you do not like me," Johnson moaned. Bobby recoiled; the situation was painfully awkward for everyone, but the vice president was unrelenting. "Your brother likes me," Johnson went on. "Your sister-in-law likes me. Your Daddy likes me. But you don't like me. Now why? Why don't you like me?"

It remains a central question, charged with emotion and invested with significance. Its answer reveals a great deal about two men, their times, and the nature of power.

The Offer

In the Kennedy suite, it was not altogether clear that an offer was imminent. Overwhelmed by the

Adapted from Mutual Contempt: Lyndon Johnson, Robert Kennedy, and the Feud that Defined a Decade *by* JEFF SHESOL. *Copyright © 1997 by Jeff Shesol. Reprinted with permission of the publisher, W. W. Norton & Company.*

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excitement of victory—on the first ballot, no less—Kennedy advisers found it difficult to focus on the thorny and less glamorous matter of the vice presidency. Joe Kennedy dropped by and urged Jack to pick Lyndon Johnson, but the candidate appeared irresolute and went to bed at 2:00 a.m., leaving advisers with the impression that only Stuart Symington and Scoop Jackson were being considered. Neither John nor Bobby said a word about LBJ.

Thus began, in Bobby's view, "the most indecisive time we ever had," a period hopelessly snarled by confusion, miscommunication, and murky, mixed intentions. Jack "thought how terrible it was that he had only 24 hours to select a vice president. He really hadn't thought about it at all." According to Bobby, it was only after the presidential nomination, the night of July 13, that they learned Johnson was interested in the vice presidency. And yet JFK had been receiving signals for days. Unless Bobby's recollections are wholly inaccurate, which seems unlikely, it appears that he knew nothing of House Speaker Sam] Rayburn's, *Washington Post* publisher Phil Graham's, or others' overtures on Johnson's behalf. "Well, we couldn't believe [LBJ] would [want the vice presidency]," Bobby said later, speaking more for himself than for his brother, "but Jack decided that he'd go down and talk to him about it anyway."

At 6:30 a.m. on July 14, Pierre Salinger stepped across the hall from his suite into Bobby Kennedy's suite. Ken O'Donnell stood outside the bathroom, where Kennedy was bathing. "How many electoral votes are we gonna get if we capture the East, Northeast, and the solid South?" Bobby shouted from the bathtub. The solid South included Texas. "Are you talking about nominating Lyndon Johnson?" Salinger demanded. "You're not going to do that."

"Yes, we are," Bobby said matter-of-factly. JFK was heading to Johnson's suite at 10 a.m. to make the offer. At this news, the two advisers exploded. O'Donnell "violently protested" Johnson's presence on the ticket; he had not forgotten the ugliness of the Johnson campaign. Bobby calmly cited Johnson's unique strength in the South. Then, rising from the tub, he dried, dressed, and excused himself to conduct a morning meeting.

Had Bobby been converted to a Kennedy-Johnson ticket? It seems highly unlikely, for as Bobby later explained, Johnson had "said some rather nasty things—or his people had—and we hadn't really gotten over that." Bobby spoke for Salinger and O'Donnell and especially for himself, revealing an antipathy that ran deeper, predating the campaign. *Time*'s Hugh Sidey recalled Robert Kennedy's "contempt for Johnson as majority leader." But by the morning of July 14, 1960, Bobby knew an overture to Johnson was imminent and seems to have been preparing or warning his like-minded advisers. He was not going to undercut his brother's decision.

Shortly after 10:00 a.m., John Kennedy traced the two flights back up from Johnson's suite to his own. He arrived, according to Bobby, in a panic of misgivings. "You just won't believe it. He wants it," the dazed Jack told his brother.

"Oh, my God!" Bobby exclaimed.

"Now what do we do?"

Bobby later told Arthur Schlesinger that "the idea that [JFK would] go down and offer him the nomination in hopes that he'd take the nomination is not true. The reason he went down … [is] because there were enough indications from others that he [Johnson] wanted to be offered the nomination. But [JFK] never dreamt that there was a chance in the world that he would accept it."

Bobby's case is not persuasive. It is hard to fathom that John Kennedy, after clear signals from Rayburn, Graham, Massachusetts Congressman Tip O'Neill, and New Deal guru Tommy Corcoran, could possibly have been surprised by Johnson's answer. JFK, after all, had earlier told O'Neill that he would be "embarrassed" if Johnson rejected an offer.

It is also doubtful that, as Bobby argues, JFK offered the vice presidency only to appease Johnson's self-importance and without any "hopes" that LBJ would accept. Graham, columnist Joseph Alsop, and O'Neill clearly recall encounters with JFK in which he convincingly sang the praises of a Kennedy-Johnson ticket, impressing others with his "positiveness." Hale Boggs thought it obvious, despite the political chaos, that JFK considered Johnson essential to victory. Tip O'Neill thought JFK "delighted" at the prospect of a Kennedy-Johnson ticket.

The accounts seem irreconcilable. What can explain Bobby's puzzling version of events? It is tempting to dismiss it as fabrication. Yet Bobby's version emerged in a series of private, sealed oral history interviews with historians and trusted friends Schlesinger and John Bartlow Martin. Over the course of eight conversations, spanning a full year, Bobby's story was consistent and emphatic: under no circumstances was JFK's offer either intended or expected to be accepted by LBJ. This account cannot responsibly be dismissed as duplicity. It is more believable that Robert Kennedy, who despised LBJ even in 1960, remembered events as he saw them.

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The Fallout

What followed was chaos. "We both promised each other that we'd never tell what happened," Bobby recalled, "but we spent the rest of the day alternating between thinking it was good and thinking it wasn't good ... and how he could get out of it." Their initial misgiving were compounded by a staff which, once informed, stormed on the verge of insurrection. Salinger was outraged; O'Donnell was almost hysterical. Turning on Bobby, O'Donnell denounced the choice of Johnson as a "disaster" and told JFK it was "the worst mistake" he ever made. "In your first move after the nomination, you go against all the people who supported you," he said. O'Donnell, JFK's liaison to labor, "was so furious that I could hardly talk. I thought of the promises we had made to the labor leaders and the civil rights groups.... I felt that we had been double-crossed."

Taut with anger, John Kennedy whitened and composed himself. He protested stiffly that his offer had not been accepted. "Did it occur to you," he pointed out, "that if Lyndon becomes the vice president, I'll have Mike Mansfield as the leader in the Senate, somebody I can trust and depend on?" The argument won few converts other than Bobby Kennedy.

Photo by Yoichi R. Okamoto/LBJ Library Collection

By late morning, word of an impending Johnson nomination had reached the convention floor. "All hell broke loose! They were just up in arms," Hubert Humphrey said of his fellow liberals. The normally sanguine Arthur Schlesinger lit into Phil Graham with such ferocity that Graham's wife, Katharine, had to pull them apart. New Mexico Congressman Stewart Udell ran from delegation to delegation "putting out fires," promising his liberal friends that a Kennedy-Johnson ticket was the surest route to victory. It was a difficult pitch. Negro leaders cried "sell-out"; the D.C. delegation, infuriated by rumors of Johnson's selection, threatened hollowly to tear the convention apart. As word of the spreading liberal revolt reached JFK's suite, Robert Kennedy in particular saw the choice of Johnson as a grave mistake.

Johnson had his own fires to quench. Few Texans had even considered that LBJ might take the vice presidency. Now, most felt deserted and sick at heart, just as bitter as the Kennedy supporters. "Who'd want to be vice president for that man?" Jake Jacobson demanded. Juanita Roberts, Johnson's secretary, was not the only one to characterize the ticket as upside down. In Johnson's suite, political leaders gathered to voice their support or outrage. Robert Kerr was so livid that upon confirmation of the bad news, he reportedly slapped Bobby Baker in the face. "Get me my .38," Kerr yelled at Baker, LBJ, and Lady Bird. "I'm gonna kill every damn one of you. I can't believe that my three best friends would betray me." Eventually, either Rayburn or Baker converted Kerr, who apologized to the Johnsons for "los[ing] my head."

Meanwhile, the two Kennedy brothers sat alone inside Jack's suite in utter indecision. "Jack changed his mind back and forth, as I did ... at least six times," Bobby remembered. "The problem was, if it wasn't a good idea, how you'd get [Johnson] out of it. Secondly, if you did get him out of it, how bitter would he be?" Shortly after 1:00 p.m. they decided to talk Johnson off the ticket, to undo "the terrible mistake."

The Aftermath

The accounts of Robert Kennedy's subsequent visits to the Johnson suite—three in all—are jumbled and contradictory. What remains clear is that each trip generated a wider wake of confusion and disaffection, with Bobby at first going ostensibly simply to test Johnson's commitment to the ticket then later, as Bobby recalled of his final visit, "to see if I could get him to withdraw." In between Bobby's visits, Johnson and his people were on the phone to JFK, who, even as his brother was attempting to ease Johnson off the ticket, called Graham and announced: "It's all set. ... Tell Lyndon I want him."

Sometime after JFK's final offer to Johnson, Graham phoned the nominee to express confusion that Bobby had again returned to Johnson's suite and was encouraging Lyndon to withdraw. "Oh," Jack replied serenely, "that's all right; Bobby's been out of touch and doesn't know what's happening." He instructed that LBJ make a statement right away, and then talked for a moment to Johnson, who was sprawled across the bed. Baker, meanwhile, tugged an utterly exhausted Bobby Kennedy back into the room.

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"Bobby, your brother wants to speak to you," Graham said, thinking himself a character in an increasingly absurd melodrama. According to Graham, Bobby took the phone, listened a moment to JFK, and said, "Well, it's too late now," before half slamming down the receiver. Robert Kennedy remembered no such phone call.

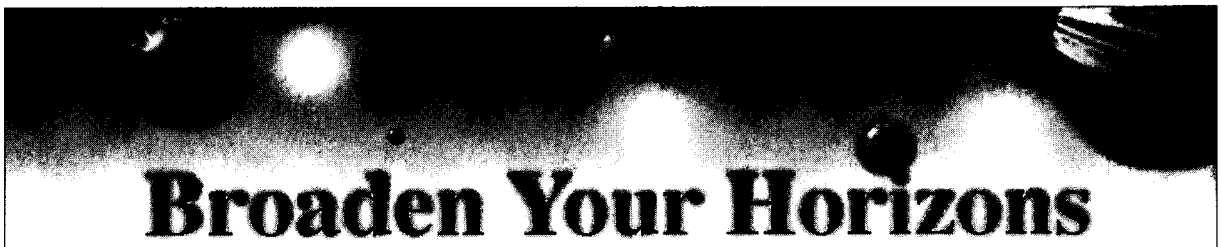
John Kennedy had changed his mind while Bobby was trying to change Johnson's. The nominee decided a reversal would do him more damage than an anti-Johnson revolt. "I just got a call from Clark Clifford ... saying that this [indecision] is disastrous, you've got to take him," Jack explained when Bobby returned from Johnson's suite. There was more: As Bobby recalled, JFK had concluded that Johnson "would be so mean as majority leader that it was better having him as vice president, where you could control him." And "particularly after you had offered him the job, then it would have been disastrous to have that affront and withdraw it."

As it turned out, it was disastrous just to attempt to withdraw it. In the wake of Bobby's last visit, a pall hung over the Johnson suite. Lady Bird was in tears. LBJ returned from his press conference sour-faced and seething. Yet he did not blame John Kennedy as the agent of his stinging repudiation; the villain, Johnson believed, was Bobby Kennedy—Bobby, who opposed Johnson from the beginning; Bobby, who sided with labor against him; Bobby, who ruthlessly tried to humiliate him. In Baker's recollection it was Bobby, not Jack, whom Johnson denounced as "that little shitass" and a score of epithets more coarse.

Johnson's friends joined in the recriminations. Connally seconded LBJ's suspicion that Bobby was the mastermind. JFK was too "practical [a] fellow," Texas Governor John Connally said, to make an offer without expecting it to be accepted. Joe Alsop believed that Bobby took the initiative to talk Johnson off the ticket and that Jack, seeking to avoid "an exhausting fraternal argument during an already stressful time," placated Bobby by allowing him to do so. Even Graham, who remembered John Kennedy's last-minute qualms and "mind-changing" more clearly than anyone, could not believe JFK had authorized Bobby's inept political maneuver. Graham instead imagined that Bobby was fulfilling a promise to liberal delegates to deny Johnson the nomination. "My guess," Graham concluded in his memorandum, "is that he made that assurance on his own and tried to bring it about on his own."

In later years, Bobby Kennedy was incensed, "flabbergasted," by the Graham memo. Bobby argued that when he had left the Kennedy suite to meet with Johnson, the two brothers had been in agreement; If Johnson seemed amenable, Bobby should ease him off the ticket. "Obviously," Bobby said to Arthur Schlesinger, "with the close relationship between my brother and I, [I] wasn't going down to see if he would withdraw just as a lark on my own—'My brother's asleep so I'll go see if I can get rid of his vice president.'"

Although Bobby's self-justifying claims cannot be verified, they make more sense than LBJ's conspiratorial account. At conventions, as George Reedy explained, "people become extremely emotional. They have a tendency to believe things that they would never believe ... in their calmer moments." Johnson had a tendency to believe such things even in his calmer moments. And in the distorting heat of Los Angeles, and forever afterward, LBJ was absolutely convinced that Robert Kennedy had acted alone, with premeditated spite, to destroy his political future.



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BLOCK ISLAND DIARY

The biggest (non)event of the summer

BY ARIEL SABAR

August 1

News Flash: *The New York Post*'s gossip column lets drop that none other than Barbra Streisand and her fiancé, actor James Brolin, will be getting married this August 9 on Block Island. That's a pretty big event for a sleepy resort town off the coast of Rhode Island. Then again, the place has gained some cachet as a fashionable wedding site ever since Edward Kennedy Jr. got hitched there during a four-day blowout a few years ago.

August 2

The media vultures have already started circling. Camera crews from *Entertainment Tonight* and *Access Hollywood* and reporters from *USA Today* and the supermarket tabloids descend on the island, all of them hungry for a scoop on exactly where the wedding reception will take place—and what will be on the menu.

The town rumor mill also whirs into gear. Reporters are eager to tap locals for the inside dope, the kind of tidbits traded over mugs of black coffee at Bethany's Airport Diner or while knocking back beers at the Narragansett Inn hotel bar. As one longtime islander puts it, this is a place where "old timers know what's going on behind closed curtains before the people behind the curtains do."

August 6

The *Post*'s gossip column retracts its original story. In a short item under the heading, "Press Power," the column claims that Streisand has nixed her Block Island wedding plans because of the publicity generated by the earlier column.

August 7

Babs is furious at the *Post*. Just to teach them a lesson, she gives an "exclusive" to *USA Today*'s Ann Oldenburg. In a statement issued through her Beverly Hills publicist, Streisand tells *USA Today* that she and Brolin NEVER planned to marry on the island. And she blasts the *Post* for "having the utter gall to say we had canceled our plans because of [its] scoop."

August 8

10 a.m. My newspaper flies me to the island to find out what's *really* going on.

10:45 a.m. Town officials, taxi drivers, local hotels and area caterers all tell me that there never was any truth to the Streisand rumor. Still, the story won't die. News vans continue to roam the island, and I traipse from hotel to hotel, a pen clutched in my fist.

1 p.m. I approach two summer residents returning to their cottage after a day in town, and ask them what the word is on the street. They tell me that a friend they trust has given them the low down on the Streisand nuptials: The ceremony, just as the *Post* had originally reported, will take place tomorrow at the Spring House hotel, a majestic Victorian mansion perched above the waterfront. The reception will be held at the secluded Lewis Farm, the very same place that islanders say was once guarded by a fierce old man with a shotgun. Oh, and President Clinton, who everyone knows is an old friend of Barbra's, will be flown in by Marine helicopter—but he can only stay for a couple of hours.

4:30 p.m. I head over to the bar at Spring House and order a lemonade. The waiters and bartenders tell me they can't believe the story is still alive—and they say they're getting fed up with all the questions. Still, the paparazzi are clearly providing these locals with a good chuckle—like the TV reporter

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who scrambled up the hotel's front steps in such a frenzy that he tripped and fell backwards into a mud puddle.

Hoping to squelch the story once and for all, Spring House's general manager walks out onto the hotel's sloping lawn and gives an interview to a Providence TV station. He says there will be a wedding tomorrow, but it absolutely won't be Barbra's.

"When we had the Kennedy wedding here a few years back, that was crazy—but not like this," he tells me after the camera stops rolling. "I'm just so awed by how out of control it's gotten."

August 9
Wedding Day!

7 a.m. The owner of Spring House, Frank DiBiase, walks out of the hotel and stumbles upon a freelance photographer who has camped out in a truck in the parking lot. DiBiase orders the photographer off the property.

3 p.m. A photographer and I park near the front gate of the hotel and get out. A news van pulls up and raises its microwave dish toward the sky. Other reporters and photographers also begin lining up. DiBiase, wearing blue jeans and champing on a cigar, comes to the gate and insists one more time that the wedding this afternoon is not Barbra's. The bride is a Connecticut woman, a non-celebrity, and she's already told the hotel's management that she doesn't want her wedding ruined by a media mob that thinks she's a front for Streisand.

The hotel girds for the worst: It hires members of the Block Island Lions Club to keep reporters at bay.

4 p.m. Wedding guests gather on the hotel's verandah, after making their way past two burly Lions stationed at the entrance to the hotel's long driveway. The bride has made a wooden sign that says, "No, Barbra Streisand & James Brolin are not here!!" One of the Lions hammers it into a patch of soil beside the front gate.

Outside the gate, island residents press binoculars and cameras to their faces and continue to titillate reporters with gossip they have picked up in town. "They say they closed the airport for five hours this morning," says a giddy Mary Giles, a middle-aged real estate broker from Waltham, Mass., who is here on vacation. "That tells me that somebody pretty special is coming."

But as the afternoon wears on, it becomes painfully clear that there will be no Babs, no Brolin, and no Bill.

4:45 p.m. A cool wind starts to blow off the water and clouds mass in the sky. The crowd of gawkers begins to disperse, and the news crews start packing up their gear.

5:30 p.m. I drive back to the cottage the newspaper has put me up in and sit down at a laptop computer. I have less than two hours to file my story before the last plane leaves the island.

Suddenly the phone rings. It's the city desk, back in Providence. The voice at the end of the line has a breathless quality I find familiar and, by now, faintly irritating. "We just got a tip that Barbra's yacht has pulled into Champlin's Marina," the editor says. "You better go check it out."

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South Africa: The Truth Behind the Fairy Tale

Why apartheid really ended—and what that tells us about the situation there now

By David Goodman

F.W. de Klerk's retirement from politics, announced on August 26, was a long-overdue acknowledgement of his irrelevance in post-apartheid South Africa. For the former president and one-time Nobel Peace Prize recipient, the drift from center stage to the political margins has been unsentimentally swift since Nelson Mandela became South Africa's first democratically elected president in May 1994. De Klerk, 60, seemed unable to grasp the fact that his moment in history had passed. By the time he resigned as head of the National Party last month, he was reduced to the role of a second-string pol carping from the sidelines. It was a humiliating final chapter to a volatile career.

ANATOMY OF A MIRACLE: The End of Apartheid and the Birth of the New South Africa
By Patti Waldmeir
W.W. Norton, $27.50

De Klerk will forever be saddled with a dual reputation. He will be best remembered as the apartheid leader who broke with the past and freed his erstwhile enemy and eventual successor, African National Congress leader Nelson Mandela. But he also bears ultimate responsibility for the deaths of some 20,000 black South Africans during his reign, many of whom died as a result of actions by a "third force" of government security operatives that wreaked havoc in black communities. De Klerk, incredulously, continues to deny knowledge of or responsibility for these abuses.

The seeds of de Klerk's downfall were evident even as he negotiated South Africa's transition to majority rule. In her controversial new book, *Anatomy of a Miracle: The End of Apartheid and the Birth of the New South Africa*, author Patti Waldmeir explores the personalities and politics behind the South African transition. The book provides historical insight into de Klerk's current misfortunes. And in a curious sideshow, Waldmeir's conclusions were cited by de Klerk's adversaries earlier this year in their campaign to topple him.

Reality Check

De Klerk's macabre side and his stunning fall from grace are at odds with the fairy tale version of the South African revolution that emerged in the popular media. This mythology began to take shape the moment Mandela strolled into his new office in the Union Buildings in Pretoria in 1994. The made-for-TV rendition features characters right out of central casting: a black saint, a white knight, and the heavily armed forces of evil drawn from both races. The storybook ending has the saint and the knight realizing that they need each other, vanquishing the demons together, then placidly riding their steeds off into the multiracial sunset. The saint also forgives everyone of their sins, from police torturers to complicit Western politicians. It's a wonderful, heartwarming tale about how two men rose above their narrow self-interests to serve the greater good of humankind.

David Goodman *is writing a book about South Africa's transition from apartheid, due out next year from University of California Press.*

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There's just one small problem: It didn't happen that way.

Patti Waldmeir, a Detroit native who served as Johannesburg bureau chief for the *Financial Times* from 1989 to 1995, offers a much-needed antidote to the fairy tale. Waldmeir's version of South African history includes real people: Mandela is a complex political animal, "a schemer, a conjurer, a manipulator of men" who spent his 27 years in prison studying his Afrikaner enemy in order to defeat him. F.W. de Klerk "was inclined to serious delusions of grandeur" and was intent on clinging to power, not giving it up. The author even confesses "a guilty sympathy" for the plight of Afrikaners, who "were fighting for ethnic survival." Waldmeir's willingness to challenge cherished stereotypes about the main players in the South African drama is a refreshing strength of this book.

Waldmeir's break with convention is confirmed by the astonishing reception the book has received in South Africa. While reporting there during the past year, I watched in amazement as this book was converted into a weapon to lynch F.W. de Klerk. The key coup plotters in this drama were not fringe malcontents: They were former members of de Klerk's brain trust. This was a palace coup, and *Anatomy* arrived just as the mutineers were ransacking the arsenal in search of ammunition. The conflagration finally became so intense that the author felt obliged to write an angry letter to the editor of a newspaper to denounce the way in which her work was being misused for political ends.

The first salvo was fired in February by University of Cape Town political philosopher Hermann Giliomee. He used *Anatomy* to revisit the negotiations that led to South Africa's first democratic elections in April 1994. Writing in the Afrikaans press, he pronounced the outcome of the negotiations "an overwhelming defeat" for the National Party. He cited Waldmeir's account of de Klerk's capitulation at the bargaining table as proof that the ex-president was too "weak" to extract concessions from the African National Congress that would have protected the language and culture of the Afrikaners.

Following Giliomee into battle was the Afrikaans newspaper (and former National Party mouthpiece) *Die Burger*. Under the headline "Surrender," de Klerk was bitterly accused of abandoning promises to protect Afrikaner culture. The editorial concluded, "Such politicians will really find it difficult to make a meaningful contribution to the reconstruction process which now lies before Afrikaans-speakers."

The Afrikaans daily *Beeld* jumped in next and cut right to the point: "... every NP leader can achieve only one big thing in his time. F.W. de Klerk has achieved his and more. A new leader must now take over."

All this sniping represents a touching bit of nostalgic bluster that one would have thought the Afrikaner opinionmakers had been disabused of by now: namely, that they "coulda been contendahs" if only their Great White Hope had the *cajones* to do what was needed. Alas, the passage of time has caused some Afrikaners to forget a painful truth: The Boers did not give up power because they wanted to. They capitulated because they had to.

Make no mistake, the apartheid regime could have held on much longer than it did. By the late 1980s, the South African military was still the mightiest in Africa, and the ANC's armed wing was so ineffective that its guerrilla units frequently ended up as suicide squads. But by the time de Klerk came to power in mid-1989, the cost of maintaining apartheid had grown unacceptably high. The South African economy had been ravaged by international sanctions and by the refusal of foreign banks to extend credit to Pretoria. Inside South Africa, the black townships had become ungovernable. The black homelands had become hopelessly corrupt aid junkies that were entirely sustained by Pretoria; rent and utility boycotts in the urban townships were further bleeding central government funds. Politically and economically, a younger generation of Afrikaners was simply running out of the willpower, if not the firepower, needed to sustain the ailing apartheid machinery.

Besides, apartheid had largely succeeded in achieving its goals by the end of the 1980s. Apartheid was first and foremost an economic ideology; concerns for racial purity were decidedly secondary. The National Party came to power in 1948 with an urgent mandate to resolve "the poor white problem." Their solution was to implement the world's most ambitious affirmative action program—an aberrant policy that they dubbed "apartheid." The intent of the system was to uplift a largely poor and illiterate Afrikaner nation and change its socioeconomic status from lower class to ruling class. And—aided by generous doses of police repression of the black majority—that's just what happened. "In the end, apartheid succeeded too well to survive," Waldmeir perceptively observes. "By promoting the economic advancement of the Afrikaner, it rendered itself obsolete."

But the elite don't forego their status, wealth, and power easily. Waldmeir does a fine job of explicating F.W. de Klerk's real motives for entering into negotiations with the ANC. De Klerk "was not—as many outsiders assumed—recognizing the historical inevitabil-

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ity of black majority rule; he does not recognize that to this day. His plan was to share power with blacks, subject to an effective white veto, not to hand it over."

De Klerk may have fleetingly been a visionary, but his vision was clouded by decades of white domination. He was deluded into assuming that he would easily outfox his black opponents in negotiations. Only in hindsight did he and his advisers appreciate the political savvy of ANC leaders like Cyril Ramaphosa, a dynamic former trade union leader who was lead bargainer for the ANC. "These guys had an advantage over us," laments Ramaphosa's NP counterpart Roelf Meyer. "They'd been through negotiations par excellence in the mining industry while we had to learn through experience on a daily basis—you can't read these things in books."

(Of course, the ANC also miscalculated. When Mandela pronounced de Klerk "a man of integrity" upon his release from prison in 1990, he assumed the NP leader was intending to end white power. It took four years and the death of thousands of people in factional fighting before Mandela's dream was realized.)

Waldmeir insists that de Klerk was not only "outmaneuvered" by the ANC, he fell victim to his own hubris. "De Klerk was desperate not to fail in the eyes of the world. And [he had] the arrogance of power: the personal arrogance of believing that he could influence debate by sheer force of personality." In a 1992 white referendum on his strategy that overwhelmingly endorsed reform, de Klerk had the audacity to campaign on the slogan, "Vote yes, if you're scared of majority rule." It was, writes Waldmeir, "a monumental deception." Eighteen months later, de Klerk signed a "Record of Understanding" with the ANC that virtually guaranteed majority rule. Even members of de Klerk's own cabinet viewed this about-face as the ultimate sellout of the Afrikaner.

EMBASSY OF SOUTH AFRICA

Miracle Workers? Nelson Mandela and F.W. de Klerk

Nonetheless, where de Klerk's former Afrikaner allies prepared to lynch him for his political heresies, Waldmeir ultimately views de Klerk's capitulation as a heroic act. She opines of the former president—much too charitably in my view, given the death toll of de Klerk's reign—that "the true test of his greatness [was] that he repeatedly took such risks, without hesitation, from the moment he released Mandela to the day he accepted majority rule. That he constantly redefined the conditions necessary for Afrikaner survival, in the light of prevailing reality.... De Klerk accepted the democratic revolution, in the end, not because he was 'converted' to democracy but because he had no choice." In the end, de Klerk and the Afrikaners had simply been "on the wrong side of history."

Not So Happily Ever After

So why did Afrikaner thinkers reopen this debate now, three years after a universally lauded peaceful transition to democracy? For the simple reason that de Klerk still ruled the Afrikaner roost. He was a relic of a disgraced era: It was time for him to quit.

Having reached his political zenith between 1990 and 1993, de Klerk's star has been falling precipitously in the post-apartheid South Africa. In June, he took the low road in front of the Truth and Reconciliation Commission (TRC), bleating "I was surprised as you were" about the human rights abuses committed by security forces during his presidency. When all-forgiving TRC Chairman Archbishop Desmond Tutu expressed astonishment and disbelief at de Klerk's denials, the former president responded by suing the TRC, calling for Tutu to apologize and for his deputy to be axed. De Klerk assumed the ignoble posture of a schoolyard bully who'd been caught lying, and whose only defense was to punch his way out of the corner.

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De Klerk missed a pivotal opportunity. He could have used the TRC as a pedestal from which to morally cleanse his party of its despicable past, taking responsibility and apologizing for crimes. Instead, he retreated into the legendary Afrikaner *laager*, trying to whip up a last gasp of white nationalism, playing the political race card, and peering out paranoically on the crowds that were massing to lynch him.

As goes de Klerk, so goes his party. A recent South African poll indicated that support for the National Party has dropped by a third, from 20 percent to 14 percent. The dwindling *verligte*, or enlightened wing, of the Nats has watched in dismay as de Klerk retreated into old-style racial politics. These reformers are voting with their feet: June saw the defection of Roelf Meyer, de Klerk's one-time heir apparent and top lieutenant during the pre-election negotiations. Meyer has now given up on the Nats and opted to form his own moderate multiracial party. It now appears that NP hardliners will inherit the party, ensuring its continued marginalization and perhaps its death as a viable political group.

De Klerk's final act has been an exhibition of his monumental hubris. That is what makes *Anatomy of a Miracle* all the more compelling. It offers a rare chance to read an incisive analysis of a historic leader's past failings, and then watch as those flaws become the seeds of his present undoing.

Anatomy is one of the best of the journalistic accounts of the negotiations that led to South Africa's first democratic elections. Waldmeir provides readers with the rare opportunity to follow the thinking of key players both before and after the pivotal battles, since she covered South Africa for the duration of the negotiations and the election. She is a punchy and engaging writer, with the result being a book that at times reads like a political thriller.

Where this book falls short is in the way it panders to the "Big Man" view of history, in which great transformations are credited to the backroom dealings of a few men. (Women's voices are strikingly absent in this all-male "anatomy.") This was clearly not the way change came about in South Africa, which spawned one of the most organized and sustained political mass movements of the last quarter-century. Indeed, Mandela often found himself leading from behind, responding to grass-roots initiatives from diverse sectors of the anti-apartheid movement—for better or worse. This book offers little insight into the social history of the era that it covers, nor does it provide a coherent picture of the larger social and political forces that played a key role outside the negotiating rooms.

The importance of these social and political factors continues to be paramount. As I traveled the "New South Africa" over the past year, it was apparent that the Boers have been quite successful at not "giving it all away." The disturbing hallmark of South African society—the juxtaposition of wrenching poverty alongside lavish wealth—is more striking than ever. Hopeful villagers flock to the cities in search of jobs, further swamping already overextended resources. Residents of the ubiquitous squatter camps voiced frustration and anger at not having received what they were promised during the 1994 elections: housing and jobs foremost among them.

"The book of apartheid is still open. We must close it and bury it forever," Adelaide Buso told me, standing in her neatly kept metal shanty outside of Cape Town. Buso is a domestic worker and a squatter, and nothing has changed in her living conditions since the day she voted for Nelson Mandela. She expresses bitterness at the fact that the ANC has "forgotten the poorest of the poor." She would consider voting for someone else if her life doesn't improve soon.

"South Africa finds itself in the middle of a revolution, not at the end of one," Waldmeir rightly observes. "The inauguration of Nelson Mandela brought about political liberation. But in the economic sphere, it was largely a revolution without change."

Indeed most Afrikaners whom I met were generous in their praise of Mandela the man, if not his government. As well they should be: Mandela's single-minded embrace of racial reconciliation—"the new civil religion," Waldmeir dubs it—has gone a long way to ensure that white wealth remains just that. White civil servants were promised that they could keep their jobs, and big business remains overwhelmingly in white hands. Life for whites in South Africa is still very, very good, thank you.

It seems cruel that the afterglow of a stunning peaceful transition to democracy should fade so quickly, eclipsed by urgent development needs. It is also unfair that people expect that a system of racial and economic exploitation that took 350 years to craft could be undone in a few years. But revolutions must yield quickly to the mundane tasks of providing basic services to those who have been neglected, and offering economic opportunities where there have been none.

As Waldmeir aptly concludes, "When South Africa stepped through the looking glass, it did not emerge in Wonderland. It emerged in the real world, where poverty is the biggest challenge to all democratic governments, and where there are tougher problems to solve than apartheid." ○

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The Last Old Dealer

The Chicago Tribune*'s legendary champion of Midwestern values fell out of step with the world long before his death*

By Michael J. Ybarra

THE COLONEL: The Life and Legend of Robert R. McCormick
By Richard Norton Smith
Houghton Mifflin, $35

DURING MY LAST YEAR OF college, I took a semester off to intern at the *Chicago Tribune*. Walking out of the Tribune Tower to lunch with some senior colleagues one arctic January afternoon, I asked why the publication's gothic edifice on Michigan Avenue didn't have a cafeteria like most good-sized newspapers. The Colonel didn't want one, was the reply. At the *Trib*, that settled things—even almost a half century after Col. Robert McCormick's death in 1955.

No publisher was ever more synonymous with—or his whims satisfied so thoroughly by—a single paper. "The world's greatest newspaper"—the Colonel's favorite boast—was laughably parroted on the *Tribune's* masthead until 1977. In 1934 McCormick decided that English was too complicated and ordered his minions to turn the *Tribune* into an orthographic experiment, changing "island" to "iland" and "freight" to "frate." This silliness persisted until 1975. And the last time I looked, the *Tribune* still flew the American flag that the Colonel had first hoisted atop its front page.

But today the *Trib* is as colorless as it was once colorful and so insipidly mediocre that it is hard to imagine the influence it once wielded in the country. Only a few cosmetic relics remain of the paper's quirky past. For instance, the *Tribune's* otherwise staid metro section still goes by the name of Chicagoland. In the Colonel's day, this denoted more than a city and its suburbs; it was a vast inland empire that included parts of Iowa, Michigan, Wisconsin, and Indiana and held 10 percent of the country's population prior to World War II.

Chicagoland was the heartland, a vast citadel of conservatism and nativism, a safe haven for American virtue and democracy under attack from the decadent denizens of both coasts, but particularly the effete elite and teeming masses of the East. "The very sight of the New York crowd antagonizes the visitor who has come into New York from his farm or small town on the Western plains," a *Tribune* correspondent reported in 1944 from Gotham—which the Colonel referred to as a foreign bureau. "These frizzy heads, these broad, brutish cheekbones, these furtive, piggy eyes, these slacken mouths—the whole 'muffin-faced race' which he sees in the New York subway—how different from the well-marked features of his neighbors back in Iowa or Kansas."

McCormick once proposed a sort of Maginot line running from Albany to Atlanta and along the Rockies that would have ceded, without much sacrifice, both coasts to attacking enemies. And enemies were something about which the Colonel knew plenty. Auto tycoons and politicians sued him for libel. But for pure vitriol no feud held a candle to the enmity between McCormick and his old Groton classmate Franklin Roosevelt. After the *Trib* slipped a scoop about the smashing U.S. victory at Midway past the military censors, FDR wanted to send in the Marines to occupy the Tower; the president was livid that McCormick's enterprising correspondent obliquely revealed one of the war's biggest secrets—that the U.S. had broken the Japanese code. FDR even considered charging the Colonel with treason, a capital offense. Some publishers might be cowed by such threats, but McCormick used the occasion to run a series of articles attacking a decade of White House vindictiveness toward the *Trib*. "McCormick needed enemies," Richard Norton Smith writes, "the way most men need friends."

The Colonel has also long needed a biographer as skillful as Smith, who has done fine books on Repub-

MICHAEL J. YBARRA *is working on a book about the transformation of American politics from the New Deal to McCarthyism.*

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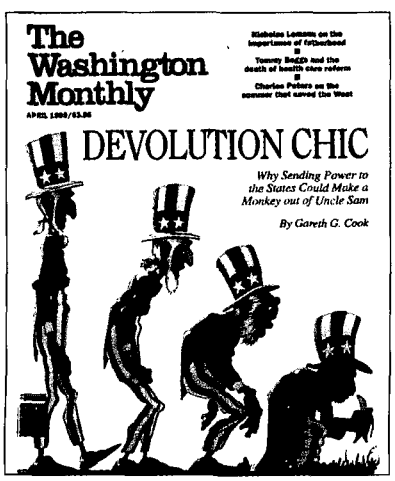

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licans as different as Herbert Hoover and Tom Dewey, crafted speeches for Ronald Reagan and Bob Dole, and headed important collections of GOP documents at the Hoover Library and the Eisenhower Center. Currently Smith is the director of the Gerald Ford Library. (One can only hope that a 600-page biography of the man from Michigan is not in the offing.)

Given this background, Smith could have easily placed McCormick within the currents of American conservatism, showing how the Colonel's isolationism and enmity toward the emerging New Deal welfare state reflected a deeply divisive battle over the kind of nation that the United States was to become. But Smith, as is his right, chose to treat McCormick as *sui generis*, concentrating on his outsized character and outrageous antics. He has dug up some new material and does an entertaining job describing the McCormick-Roosevelt feud, but the book doesn't quite live up to its press kit's billing as "a sweeping revisionist account of the New Deal." Instead we get a sympathetic, anecdote-crammed biography of a newspaper titan from an age when newspapers actually reflected their communities and not some bean counter's monomania with rising quarterly profits. When a big department store owner wanted to water down a story, McCormick barked: "Keep the story and throw out the advertising." We also get a rather sad portrait of a man at war with much of the 20th century.

When FDR died, McCormick handed out $10 bills to elevator operators and pressmen.

Robert R. McCormick was born in 1880, the second son of Robert S. McCormick, whose uncle invented the reaper and whose own career as a dilettante diplomat took a backseat to his more serious pursuit of alcohol; and Kate Medill, the insufferable daughter of a newspaper dynasty, a woman so sparing with her love that she had to bribe her son to visit her. Love-starved McCormick later came to wed (twice) older divorcees without children who might compete with him for affection.

Young McCormick, called Bertie, went to a British boarding school, where he fell in love with English tweeds and cricket—and, perversely, developed a lifelong Anglophobia. He was convinced, for example, that returning Rhodes scholars would serve as British spies. Later at Groton, McCormick was the only boy from west of the Hudson, a social stigma that fueled a strong antipathy toward the Eastern seaboard. Four years at Yale followed, but McCormick's real coming of age took place in World War I, where he earned the military honorific that preceded his name for the rest of his life. Paradoxically, the war was both the last exercise of U.S. force that McCormick approved of and the kind of formative experience that is rare for a man in his late thirties. The Colonel's martial obsession soon showed itself in everything from hand-grenade fishing to his bullet-proof, khaki-colored Rolls Royce.

McCormick was just as belligerent in running the family business, where his 24th-floor suite in the Tribune Tower could pass as a plush bunker, protected by armed guards and stocked with both an axe and a machine gun within easy reach. (During the Cold War, McCormick would transform the Tower into the world's largest fallout shelter.) McCormick's orders were never questioned. He once dispatched ace foreign correspondent William Shirer to fetch a pair of binoculars that he had left in a barn in France nine years earlier. Having paid what he thought was too much for rabbit, McCormick ordered the business section to start running quotes on hare prices, which the staff dutifully invented. The paper's extensive foreign staff was expected to loot great buildings around the world so chunks of the Parthenon and St. Peter's could be imbedded in the Tower wall.

For a newspaperman, McCormick was not particularly scrupulous about facts. He lied about his wife's age on her death certificate and shaved even more years off her tombstone. He claimed to have started the ROTC program, introduced machine guns to the army, and to have been the first officer to take to the air to observe artillery fire. He forgot to mention, carped one critic, that he also put salt into the oceans, and taught birds to fly and babies to say goo-goo.

The Colonel also had a self-appointed mission to save the free enterprise system from misguided liberals like Herbert Hoover. When FDR entered the White House, McCormick sent his reportorial troops into action to discredit the New Deal and massed his editorial artillery at the president. "Roosevelt is a Communist," he declared. During the weeks leading up to the 1936 election, *Trib* operators answered the phone with an announcement about the number of days left to save the country. On the morning after the president's landslide, FDR's supporters pelted the Trib

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Tower with bricks.

Even after the German invasion of Poland, a *Trib* cartoonist was still depicting FDR as the equal of Hitler and Stalin. Roosevelt returned the compliment, labeling the Chicago, New York, and Washington papers owned by the Colonel and his relatives the McCormick-Patterson Axis. When Roosevelt died, McCormick handed out $10 bills to elevator operators and pressmen. "There's no one I'd rather fly a flag at half-staff for," he said.

The Colonel's days, however, were numbered as well. The *Tribune's* daily circulation peaked at more than 1 million in 1946. But the world had changed and McCormick was left behind, sputtering venom at anything that moved. The burgeoning national security state, Smith notes, was no more congenial to him than the welfare state: Both were big-government solutions worse than the ills of either economic dislocation or world communism. Not even a few good years of McCarthyism, which the *Tribune* assisted as best it could, were able to change things. As Smith puts it:

> Outlasting the era of personal journalism, he lingered on to see television begin to homogenize America and destroy the regional loyalties on which the *Tribune* had built its power. Marooned in the second half of the 20th century, he spent his final years in a harrowing re-enactment of *Citizen Kane*, an erstwhile urban reformer, thwarted in politics and frustrated in love, irreconcilably alienated from the political party that had been synonymous with three generations of his family. With his newspaper in decline and his personal life in a shambles, the aging mogul stumbled from one disaster to the next.

McCormick died in 1955. He was buried in his World War I uniform in an over-sized coffin that he had purchased years earlier out of fear that his 6'4" frame wouldn't fit into an off-the-rack casket. It fit better than the century. ●

Tony's Final Chapter

An epic account of when class war meant just that

By Timothy Noah

BIG TROUBLE: A Murder in a Small Western Town Sets Off a Struggle For the Soul of America.
By J. Anthony Lukas
Simon & Schuster, $30

THE TERM "CLASS WARFARE" has a quaint ring today; when used at all, it's only in the figurative sense—more often than not by wealthy folks accusing someone of trying to take away their tax breaks. But "class warfare" was a deadly serious term at the beginning of this century, when it was frequently invoked by labor leaders to describe their struggles against capitalist bosses. It's the conceit of the late J. Anthony Lukas's final book that class warfare came close to crossing over from rhetoric to actuality in the "prolonged, bitter, and bloody confrontation" between capital and labor that led to the assassination of former Idaho Gov. Frank Steunenberg and the subsequent murder trial of the radical labor leader "Big Bill" Haywood.

It makes eminent sense that what was arguably the high-water mark of American socialism occurred in the ruggedly self-reliant West. As Lukas explains it, the West drew settlers seeking to escape civilization's shackles abroad and in more easterly parts of the U.S. Whereas today's self-reliant extremists tend to see government as the oppressor, their predecessors during the late 19th and early 20th century, the age of the great trusts, were more apt to see industrial capitalism as such; there were 37,000 strikes between 1881 and 1905. Whatever resentment of government existed mainly reflected the view that its strings were being pulled by capitalist titans.

The trouble was, for many, moving west proved a poor way to escape the brutal effects of the industrial revolution. Haywood, for one, spent a year of his youth as a cowboy and found it lonely, dreary work

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that "bore precious little resemblance to the myth cultivated by pulp magazines, dime novels, and Wild West shows." Then he tried homesteading, only to go belly-up in the Panic of 1893. After the federal government assigned Haywood's homestead to an Indian reservation, he went into the mines and joined the ongoing battle between miners, on one side, and the mine operators, railroads, and banks on the other.

Among the worst battlegrounds was the Coeur d'Alene region in Idaho, where labor unrest in 1899 led to rioting and President William McKinley's dispatch of black troops to keep the peace, a gesture that in that time and place only heightened class tensions. (In one of the best of the book's many lengthy asides, Lukas tells how the same 24th Infantry seized Cuba's San Juan Hill during the Spanish-American War, only to have the credit given to Teddy Roosevelt and his Rough Riders.) The troops were brought in at the request of then-Governor Steunenberg, who bore the brunt of criticism against the imposition of martial law, which included the rounding up of men, women, and children into temporary prisons ("bullpens") fashioned from barns, boxcars, and the like. Six years later, Steunenberg, having by then returned to private life in Caldwell, Idaho, died in an explosion triggered by the opening of his garden gate, which had been rigged with dynamite.

Steunenberg's assassination triggered a massive response by the governors of both Idaho and Colorado, prodded by (and in large part paid for by) the mine owners, who immediately pinned the crime on Haywood and two other top leaders of the radical Western Federation of Miners. Their arrest in Colorado, transfer to Idaho, and subsequent trial were all orchestrated by James McParland, an aging Pinkerton operative who'd become something of a celebrity for infiltrating and then helping to prosecute the infamous Molly Maguire labor terrorists; among other things, he'd been turned by Arthur Conan Doyle into a character in a rare Sherlock Holmes story set in the United States. The miners, in turn, hired Clarence Darrow to defend Haywood; the prosecution was led by the newly elected Idaho senator, William Borah.

Surprisingly little of *Big Trouble* is dedicated to figuring out the guilt or innocence of Haywood and his fellow WFM leaders. This is a minor annoyance in a book of nearly 800 pages. On the one hand, one sympathizes with Lukas's broader aim of recreating with great particularity a colorful and significant set of events surrounding the murder trial. Lukas does document quite well the dubious means employed to bring about a conviction, while making clear that Haywood was fully capable of ordering Steunenberg's murder. Neither side in this politicized dispute seemed especially interested in rooting out the truth; the mine owners clearly wanted to put the WFM out of business, while the Socialists and other union activists were interested only in what the trial said about the ruling class's hostility toward labor. To portray these events as more circus than mystery, as Lukas does, is probably true to their spirit. It also allows Lukas to present a marvelous procession of characters who were involved with the trial, including not only McParland, Haywood, and Darrow (whom Lukas portrays as somewhat hypocritical and vain), but also President Roosevelt (presented as a bit of a clown), Borah (a charismatic philanderer; apparently one of his conquests was Alice Roosevelt Longworth), Ethel Barrymore, Gifford Pinchot, and star baseball pitcher Walter Johnson. (The latter character, whose early triumphs were witnessed by Darrow during the trial, seems especially peripheral to the book's events, but Lukas had a famous passion for baseball.)

On the other hand, uh, whodunit? Lukas hints at the end of the book that Haywood probably was guilty, a conclusion I'd tentatively drawn by then, but he doesn't do much to make the case. Despite a wealth of near-photographic detail about certain parts of the trial, Lukas gives short shrift to the allegation that Haywood had said Steunenberg "should be exterminated"; this is mentioned in passing late in the book, and the witness who testified to hearing it is never identified in the narrative. Conflicting theories about whether the assassin, Harry Orchard, was Haywood's gun for hire, seeking to save his own neck by implicating Haywood, or simply insane, aren't satisfactorily fleshed out.

But the mystery surrounding this book that most readers are likely to wonder about concerns the author himself. Lukas killed himself a few months ago after reviewing the galleys; reportedly, he viewed the book as a failure. It was a tragic end to a brilliant career in journalism that reached its apex with Lukas's previous book, *Common Ground*, one of the finest works of nonfiction narrative of the last half-century. But although less disciplined and ultimately less successful than its predecessor, *Big Trouble* is not a failure; in some stretches it is livelier and more incisive than *Common Ground*, and in many ways—most obviously, its vivid rendering of events that Lukas can only have read about—it is more impressive. I don't believe anyone commits suicide over writing a bad book; but if Lukas died with that delusion, it only makes his death more tragic. *Big Trouble* is a book most first-rate journalists would be proud to have written. Though far from perfect, it adds luster to the memory of Lukas as one of the great journalist-historians of this era.

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Political Booknotes

Psychiatric Malpractice

by Charles Slack

In March 1992, four months into her stay at Southwood Psychiatric Center in San Diego, 13-year-old Christy Scheck tied the sash of her terry cloth bathrobe around her neck and, while sucking on a Tootsie Pop, hung herself against her bathroom door.

Southwood, to which Christy's parents entrusted their daughter on the advice of a psychiatrist, proved to be a sort of malevolent Wonderland, full of criminally greedy administrators and inexperienced counselors whose ineptitude might have seemed comical had not the stakes for the Scheck family been so high—and the outcome so tragic.

Journalist Léon Bing's book, *A Wrongful Death: One Child's Encounter With Public Health and Private Greed*, unsparingly recounts Southwood's deplorable handling of Christy Scheck's case and raises broader questions about the way mental illness is treated (or, too often, mistreated) in the United States. Southwood's parent company, National Medical Enterprises (NME), ran 76 hospitals around the country, and the problems were by no means limited to one hospital.

"Put heads in beds" was the charming directive from Southwood management to staff. Parents who phoned advertised hotlines for advice on Susie's temper tantrums or Bobby's sullen moods were inevitably urged (assuming the family was well-insured) to bring the child in for an evaluation. Uninsured families were sloughed off on publicly funded programs or free clinics. The subjective nature of diagnosing mental illness—as opposed to the cold reality of, say, a fractured fibula—left ample room for slick counselors to convince parents their kids needed inpatient care. During a brief conference they could transform a simple act of teenage rebelliousness into a potentially deadly "disorder" requiring immediate hospitalization. Hospitalization typically lasted until the insurance ran out.

As often happens where matters of national policy are concerned, the niche for these white-coated sleaze bags grew from the best intentions. In this case, it was the long overdue recognition of mental illness as a medical—and hence, insurable—problem. While there are undoubtedly many fine, honest psychiatrists and hospitals out there, the river of insurance money was too tempting for miscreants to pass up. If persuasion didn't fill beds quickly enough, NME hospitals were not above more coercive tactics. The author rounds up horror stories of teens who were essentially kidnapped on some flimsy pretense (suspicion of a drug problem, for example) then released only after racking up enormous bills.

A WRONGFUL DEATH: One Child's Fatal Encounter With Public Health and Private Greed
By Léon Bing
Villard Books, $25

To her credit, Bing focuses instead on the more complex story of a young girl who actually needed hospitalization and quality psychiatric care. Christy Scheck suffered from serious depression, had hurt herself several times, and demonstrated rage against her family. The Schecks were imperfect parents. Father Bob Scheck, a he-man with a military background and a strong desire for a son, delighted in Christy's youthful athleticism but apparently recoiled as she began to develop into a young woman. Mother Merry Scheck, if anything, was guilty of being too passive.

But in the end it is the complexities of the Scheck story that make it so compelling. These are the families, after all, who are most in need of competent care. From the moment Christy was admitted, Southwood's inexperienced and profit-driven staff seemed determined to drive a wedge between her and her parents by supporting the notion that the parents were to blame for Christy's illness. In particular, the staff encouraged, and subsequently endorsed without question, Christy's ever-wilder accusations, including sexual abuse by her father.

Bing clearly believes Christy invented these charges to punish her parents, and presents overwhelming evidence that, whatever Bob Scheck's faults, he was no child molester. But that didn't stop Southwood from egging Christy on, nor did it stop the hospital and government agencies from inflicting a public nightmare on the Schecks that ultimately enveloped not just Christy and her parents, but younger sister Molly as well. As a result of charges that Bob Scheck abused both daughters, Molly was moved to a foster home for a time.

The final injustice of the system was one of simple neglect. On the night she killed herself, Christy sent unmistakable signs to attendants that she was depressed and on the verge of hurting herself. Nevertheless, understaffed Southwood left her alone long enough to hang herself. Then, as a last insult to the Schecks, attendants phoned doctors, staff, even insurance companies, before letting the family know an hour later that their daughter had been discovered near death.

Bing's only missteps in *A Wrongful Death* involve her tendency to ramble. The author insists on offering complex, distracting descriptions of even the most ancillary characters. An overly long preface oddly recounts Bing's own high-flying life on the fringes of the Southern California cocaine trade during the early 1980s, leading to a brief stint as an orderly in a psychiatric hospital. Her personal connection to the mental health system is too brief and ancient to warrant

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such a detour, especially at the beginning of the book. Her epilogue, meanwhile, strays from the psychiatric system by indicting the American medical system as a whole—raising too many issues in too short a space.

These gripes notwithstanding, Bing's book is a powerful one, offering sobering evidence that for one lost 13-year-old girl—as for many other patients—the most dangerous forces were those that ought to have been most dedicated to making her well.

CHARLES SLACK *is a reporter for* The Richmond Times-Dispatch.

S-uperficial & L-azy

by L.J. Davis

FOR A VARIETY OF REASONS, *Big Money Crime* by academics Kitty Calavita, Henry N. Pontell, and Robert H. Tillman is a curious book. For one thing, it brings to mind another scholarly tome from a few years past, in which the authors concluded that Hitler might, just might—we must be careful here, we are scientists—have been crazy. In similarly cautious prose, Calavita et al. have discovered that the savings and loan crisis of the 1980s was, at bottom, the largest financial fraud in American history. They say this several times, rather as though they were reminding us that Lake Michigan is long, the moon is round, the Great Pyramid is big, and President Clinton talks too much. In the 1980s, the nation's S&Ls were a den of thieves. Duh.

Calavita and her colleagues are never so happy as when they are counting things. Specifically, they make an effort to count the number of S&L crooks, the number of S&L crooks who were brought to book, and the time the convicted crooks actually spent in the cooler. It does not occur to them that much of their database—the one provided by the Resolution Trust Corporation—is laughably flawed. Moreover, given the affectless tone of the prose, the resulting unedifying spectacle resembles a seminar of earnest graduate students trying to remember the periodic table in the middle of a bombing raid.

Finally, Calavita and company have missed everything of importance. For instance, in examining the origins of the S&L fiasco, it should be borne in mind that sex, stupidity, and money explain all of human history. There was a certain amount of sex attached to the S&L scandal, but not in a way that was important to anyone but the participants. There remain, however, stupidity and money, both of which were present in abundance. When confronted with the thrift industry and its subsequent $500 billion (or $750 billion or $1.1 trillion) fiasco, the members of the Reagan administration and their legislative allies resembled turkeys and boxcars: There wasn't a brain in a mile of them.

BIG MONEY CRIME: Fraud and Politics in the Savings and Loan Crisis
By Kitty Calavita, Henry N. Pontell, and Robert H. Tillman
University of California Press, $27.50

In their examination of these characters, the authors have also done no original work, instead relying on the usual sources: Pizzo, Fricker, and Muolo's *Inside Job*; O'Shea's *The Daisy Chain*, and others. Considering the speed with which these books were written, many of the authors did an astoundingly good job, but they did not have the luxury of time and reflection, supposedly one of the perks of the scholarly trade. The *Big Money Crime* team, with bushels of grant money to burn and acres of afternoon for thought, is aware that Congressman Fernand St. Germain, the co-author of the bill that made possible the conflagration, was a willing lackey of the thrift industry, but they do not plumb his intellectual depths—depths suggested by the fact that he invested his ill-gotten campaign contributions in the Inter-

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HERBERT H. LEHMAN

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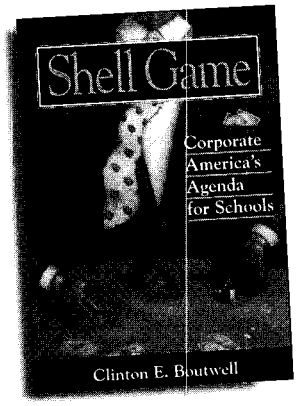

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national House of Pancakes. Jake Garn, the other author of the bill and a figure glancingly mentioned, was regarded by many of his legislative colleagues—for excellent reasons—as a world-class nut. M. Danny Wall, the Garn aide who wrote much of the bill and later became chairman of the Federal Home Loan Bank Board, was a man who faced, but did not surmount, many cognitive challenges. President Reagan, who signed the bill, believed—among many strange things—that the national defense budget consisted of free money that could be spent at no cost to the taxpayer. Presidential Chief of Staff Donald Regan and budget director David Stockman believed that the best way to remove the government from the groaning back of the people was to abolish or reduce the police forces, particularly the Postal Inspection Service and the regulators at the Bank Board, which they did. When Ed Gray, Wall's predecessor as Bank Board chairman and a Reagan appointee, attempted to alert the nation to the fact that knaves and thieves were stealing haystacks of money, Chief of Staff Regan tried to have him arrested. None of this is in the book, although it should be. Nor do the authors know where a rather large amount of the money went.

Michael Milken took it. Perhaps we should not be too harsh on Calavita and her colleagues for their lack of awareness in this concern; Mr. Milken is undergoing a wonderful rehabilitation by the members of the academy, and, as previously noted, the authors lean heavily on academic sources. It is true that Milken's junk bonds did not have a high default rate, but it is also beside the point. At Drexel Burnham Lambert, Milken was running arguably the largest known extortion ring in American—and perhaps world—history. In his—dare we say?—clutches, Milken had more than 140 S&Ls and their taxpayer-insured deposits. Some of these were allies (Charlie Keating's Lincoln; Silverado, where Vice President Bush's son Neil was a director) and some (most) were captives held in thrall by the fact that no one would recapitalize them but Drexel. The model worked something like this: Milken's allies and captives would begin by buying and selling a company's stock, vigorously but to all appearances senselessly, in cross-trades through Drexel. The clear objective was to flip the company into play, but there was a hidden agenda. As the company's chief financial officer watched the gyrations of his stock in horror, he was likely to receive a call from Jim Dahl, Milken's right hand man, or from another Milken lackey. "We want to be your investment banker," this worthy would say. In other times and other places, more honorable men have put the matter more clearly: "Pay or die." Once the company was in a cooperative frame of mind, it would issue junk bonds through Drexel. Milken's captive S & Ls would buy them. Of all this, the authors are ignorant.

Alas, when they actually do buckle down to work, their data—much of it obtained from the Resolution Trust—is seriously flawed. Anyone undertaking a serious examination of the RTC will discover that something went badly wrong in there. Criminal referrals based on solid information went nowhere. Promising investigations were abruptly terminated. Whole officefuls of lawyers

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whose specialized skills were essential to recovering lost or stolen money were dismissed. Paper trails suddenly stop. The more flamboyant criminals, such as Keating, were brought to book, but other, perhaps more cunning, perhaps better connected, and certainly less conspicuous, slipped the net. And, as the authors themselves discovered, the RTC was a very nervous place.

"Before the meeting had even started," they recount, "the senior official burst into the room. He proclaimed that he had ordered us not to pursue certain lines of inquiry with the data from his office and that we had disobeyed.... We soon learned that this official had contacted our funding agency to insist that we stop analyzing data that had led us to the 'forbidden' lines of inquiry." To the academic investigators, this suggested nothing, except perhaps that the high official had experienced a difficult childhood; undaunted—and, more to the point, incurious—they proceeded on their way. They counted beans. The beans were provided by a federal agency that remarkably few serious investigators trust any farther than they can throw it. Here is the fruit of their labors. The definitive book about the S&L crisis remains to be written.

L.J. Davis *is a contributing editor of* Harper's *magazine and a contributing writer to* Mother Jones.

The Corner Drugstore

by Steve Bogira

What is clear about the drug war is that nothing so far has worked. Despite billions spent mainly on cops and prisons, the dealing on inner-city streets persists.

"Against all the sanction we can muster, this new world is surviving, expanding, consuming everything in its path," write David Simon and Edward Burns. It's time to go back to square one, they say, to "shed our fixed perceptions" and take a fresh look at the problem "from the inside."

Which is what Simon and Burns give us in telling detail in *The Corner*, a look at drug dealing on the streets of West Baltimore, told from the point of view of the users and dealers themselves. One of the "fixed perceptions" the authors challenge is the idea that those involved in the drug life have mainly themselves to blame—that they freely chose to use or deal. Consider the book's main character, 15-year-old DeAndre McCullough. DeAndre grew up on a street where voices day and night chime out "Killer Bee," "Lethal Weapon," "Tec Nine," or whatever brand of heroin or cocaine is being hawked that day. Gaunt figures stumble down to the corners to cop. DeAndre's mother is one of these. Others slink into abandoned, urine-stinking rowhouses to fire home their dope. His father is one of these.

THE CORNER: A Year in the Life of an Inner-City Neighborhood
By David Simon and Edward Burns
Broadway Books, $27.50

DeAndre lives with his mother and younger brother in an 8' x 10' room in a three-story rowhouse. Various uncles and aunts, most of them addicts like his mother, inhabit the rest of the building; the hallways are heavily trafficked by dope fiends. When DeAndre ends up on the corner, slinging packages and vials, is it really that surprising?

He should be in school, of course; he should be thinking about tomorrow. But people are dropping dead at a young age all around him—from bullets, overdoses, and the Bug. Maybe he'd think more about his future if it were clear he had one. DeAndre makes money quickly on the corner, and spends it just as fast, on name-brand clothes, marijuana, and Happy Meals. But the corner offers more than money, the authors write; its people are also "cultivating meaning in a world that has declared them irrelevant. ... In this place only, they belong. In this place only, they know what they are, why they are, and

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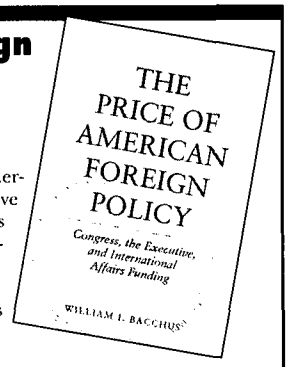

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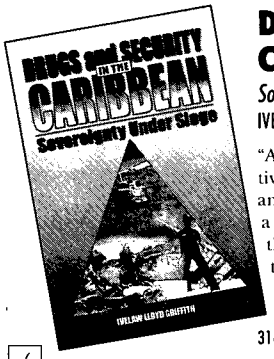

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what it is that they are supposed to do. Here, they almost matter."

Anthropologist Elliot Liebow noted a similar quest for meaning on inner-city streets 30 years ago in his classic, *Tally's Corner*. "The desire to be a person in his own right, to be noticed by the world he lives in, is shared by each of the men on the street corner," Liebow wrote, of the men he studied on a corner in Washington, D.C.

To the extent that things have changed on the corner in three decades, it has not been for the better. Liebow studied men, because that's who was on the corner at the time. But in the mid-'80s, cheap cocaine lured women out there as well—to buy, and then sometimes to sell, to support their new pastime. With mothers as well as fathers addicted, discussions about single-parent families in the inner city have become dated, Simon and Burns point out, as vast numbers of children today are "in reality, parentless."

Soon these kids were on the corners too—"drawn not only by the quick money, but by the game of it," the authors write, "... playing gangster, selling vials, and ducking the police." Selling drugs has become a "rite of passage" throughout inner-city Baltimore.

With kids doing much of the slinging, gone is the discretion dealers once showed. These days, they stand on the corner caressing their bankrolls—"begging for the attentions of a knocker [plainclothes cop] or stickup artist." They hawk their product to passing cars, and serve almost anyone. The occasional violence necessitated by the business used to be limited and planned; now it's often "some manchild with hurt feelings waving a .380 around and spraying bullets up and down the block," with bystanders paying the price.

Simon, whose first book, *Homicide*, chronicled a year in the life of Baltimore detectives (and led to the TV series of the same name), and Burns, a former Baltimore police detective himself, describe the debasing effect all this has had on police work. "Stupid criminals make for stupid police ... a valuable bit of precinct-level wisdom that the Baltimore department ignored as it committed itself to a street-level drug war," the authors write.

Police work has degenerated to "fish-in-a-barrel tactics," Simon and Burns say, and investigation and procedure have become foreign concepts to a generation of cops. "Why become adept at covert surveillance when you can just go down to any corner, line them up against the liquor store, and search to your heart's content?"

Not that the arrests of these small-time pushers slacken trade on the corners. Even officer Bob Brown, a legendary drug buster in West Baltimore, makes but a momentary impact. Brown has been patrolling the neighborhood streets for two decades. He knows every inch of his beat, and most of the players by name. He is surely what police officials and neighborhood associations have in mind when they proffer community policing as the newest weapon against crime. Yet though Brown has "fought tenaciously, clearing corners, herding fiends, chasing slingers, and arresting hundreds every year," Simon and Burns say, the working-class neighborhood where he began his career has become "little more than a collection of open-air drug markets and crumbling shooting galleries." Brown descends on the neighborhood one evening, filling his wagon with a half-dozen corner denizens. His efforts this particular evening bring a halt to the dealing on the corners—for exactly as long as he's there. "Shop open," a dealer declares, as soon as Brown's wagon is out of sight.

Simon and Burns give us full portraits instead of caricatures, the result of their willingness to stay close to their subjects for more than a year. (Trailing dope fiends and dealers is not an easy task; once, while walking down the street with DeAndre's father, Gary, the authors and Gary were shoved into an alley and robbed by three young men armed with a pistol and a hunting knife.) The people of the corner are obviously not saints, but as the authors show, most are not sociopaths either; they want a better life for

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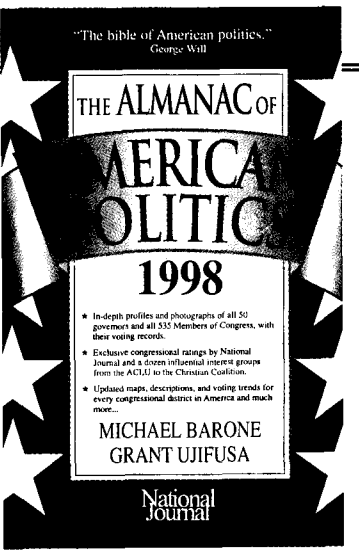

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themselves and their kin.

With the help of treatment programs, DeAndre's mother, Fran, manages to get clean sometimes. But while treatment cures the physical addiction, it doesn't change what Fran has to return to—a neighborhood where once you hit bottom, the only way to go is sideways. And the corner soon sucks her back.

Gary's attempts at kicking are likewise doomed. He is not proud of what he is. Lost in thought after holding DeAndre's son—Gary's first grandchild—for the first time, Gary says: "When you're young, you think about what it is that you want to be—you think of all the things there is. And you wonder what it is you should wish for." Tears trail down his cheeks, as he continues: "I'm a drug addict. That's what I am. Who would wish for that? Who would choose that for their life?"

The debate over legalization of drugs misses the point that *The Corner* makes clear. For the problem isn't really what's happening on the corner. The problem is what's not happening elsewhere. Legalization might take the profit out of street dealing, and strip glamour from the pushers. But the more complicated challenge of creating an alternative for people like DeAndre—a meaningful role for them in our society—would stubbornly remain.

STEVE BOGIRA *writes about crime and poverty for the* Chicago Reader.

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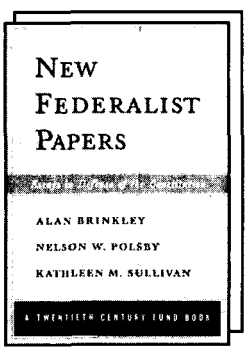

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Saving the Sentinel

by Marvin Kalb

MY FAVORITE STORY FROM this thoroughly absorbing book concerns the eminent 19th-century transcendentalist Henry David Thoreau. One day Thoreau was approached by a reporter with the breathless news that a new technology called the telegraph had just been tested successfully. "The president of the United States," the reporter announced, "sent a message to the mayor of Baltimore in a matter of minutes." Thoreau considered the news carefully and then asked, "What did the president say?"

Stanley E. Flink, the author of *Sentinel Under Siege*, and a former journalist who is now an adjunct associate professor at New York University, uses the story to underscore the continuing importance of words in journalism and history. We may all be absorbed with flickering images on televisions, but words, he stresses, are "the voices of memory." They convey the essence of history.

Flink has produced a valuable, well-written, and magnificently researched book. The subtitle suggests its scope—a tour of the triumphs and troubles, the bumpy contours of American journalism, from its protected origins in the Bill of Rights to the bustling uncertainties of the current world of mega-mergers, collapsing professional ethics, ferocious competition, and the World Wide Web. "The free press," Flink writes, "is facing a time of crisis."

Indeed it is, and one reason appears to be the rise of television as "the preponderant news source" for the overwhelming majority of Americans. Flink, who has worked for Life, CBS, and NBC, is clearly of the view that

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television hurts rather than helps the process of informing the public. At one point, he quotes the elder statesman George Kennan as saying in 1993 that television is only capable of "fleeting, disjointed visual glimpses of reality, flickering on and off the screen, here today and gone tomorrow." At another point, he quotes the late president of the University of Chicago, Robert Maynard Hutchins, as describing in 1951 a gloomy future in which there would be "nobody speaking and nobody reading." Hutchins explained sardonically:

> Astronomers ... have detected something that looks like moss growing on Mars. I am convinced that Mars was once inhabited by rational human beings like ourselves, who had the misfortune, some thousands of years ago, to invent television.

Still, like many others enraptured more by the concept of a free press than by its recent performance, Flink expresses the hope that the press has the wit and courage to do its assigned job—namely to provide fair, accountable, and responsible coverage of the public arena so informed citizens can make intelligent decisions about the policies of their government. As one way of turning the press away from hype and sensationalism and toward a more balanced, nuanced, and reflective style of reporting, Flink presents a set of proposals designed to help the press make a mid-course correction before the government, egged on by a dissatisfied populace, takes steps to constrain its everyday activities.

Flink's proposals focus primarily on the need for more and better education—for journalists to be given time and resources to go back to school to learn more about public policy. The press should make every effort to be more accountable to the public; ombudsmen should have vastly increased clout within their organizations. Higher ethical standards should be emphasized, fairness and evenhandedness in copy stressed. Journalists should be urged "to inform, not merely entertain." Echoing the argument advanced decades ago by Walter Lippmann, Flink cites the continuing need for the highest quality journalism, even if it is only for the comparative few who still demand it.

SENTINEL UNDER SIEGE: The Triumphs and Troubles of America's Free Press
By Stanley E. Flink
Westview, $25

Such goals may sound elitist, even unrealistic, in today's stormy seas. For example, which news organizations are prepared to bankroll these reforms? When "media" has superseded "news"—in the parlance of modern-day journalism—who will set the new standards for ethics, King or Koppel?

Throughout the book, Flink finds himself grappling with one of the most contentious issues in journalism: Should the news provide people with what they *ought* to know or what they *want* to know? The author, unsurprisingly, comes down on the side of "ought to know." Flink is not one for "lite news." In this sense, he is riding against the tide of powerful forces in contemporary American journalism, for whom the bottom line is the bottom line. That is why he sees the "sentinel under siege" but undoubtedly prays that it can still find a way to "triumph" over its current "troubles."

MARVIN KALB *is director of the Shorenstein Center on the Press, Politics, and Public Policy at Harvard University.*

Looking Backwards

by Adam Yarmolinsky

IT IS ALWAYS SALUTARY TO BE reminded of our mistakes. And the architects of American urban fiscal and welfare policy over the last quarter century made some whoppers. Intransigent naiveté, blindness to inevitable consequences, cowardice in the face of bullying and corruption—all of these sins are laid out in convincing detail in Fred Siegel's new book.

Siegel's thesis is that our big cities, and specifically New York, Los Angeles, and Washington, have been going to hell in a handbasket because their leaders have squandered their resources on welfare bureaucracies, neglected public order, splintered civic unity over issues of race and ethnicity, and ignored the market economy. The argument seems not so much wrong as irrelevant to our present troubles:

• The recent welfare reforms have

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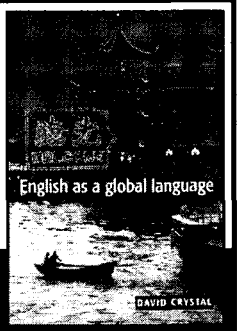

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completely changed the fiscal picture.

• Community policing and the exhaustion of citizens' patience with public disorder have altered the debate over public order.

• Issues of race and ethnicity continue to roil the civic body politic, but demagoguing these issues has begun to backfire as a political technique. New York's Al Sharpton is now seen more as a pathetic figure than as a monster, a distraction rather than a threat.

• Reviving the economy of the big cities is recognized as the major problem of governance. The question is no longer whether but how to do it.

Siegel's view of all these problems is essentially a backward-looking one. He seems more concerned with what he considers the excessive social services available in New York City for a child with emotional problems than with the inadequacy of these resources (as documented by investigative journalism). And he complains about the deinstitutionalization of mental patients (has he forgotten the exposés of Willowbrook?) rather than about the collapse of the community mental health centers that should be providing a better answer.

Siegel is at his sharpest in describing the limitations of individual leaders—the righteousness of John Lindsay, the cynicism of Ed Koch, the timorousness of David Dinkins, the laissez faire demagogy of Sam Yorty, and the complete abdication of responsibility by Marion Barry. Nor is Siegel blind to the failings of the new generation of reformers, who he wishes would lead us back into ancient paths of virtue. Although he takes a more positive view of the incumbent mayors in New York and Los Angeles, he notes Giuliani's "expert[ise] in the art of turning would-be allies into enemies," and Riordan's inability to articulate a consistent vision.

But Siegel offers only a few glimpses of his vision of the future. He sees hope in the expansion of retail trade and the opportunities it offers for entry-level employment. He is more optimistic than most analysts about the chances of upward mobility from a McDonald's counter. He describes in glowing terms the new Mexican immigrant neighborhoods in Los Angeles, arguing that "the strength of their conventional values gives the Mexicans another advantage." He recalls the strategy he had proposed for New York when he was a "senior member" of the Giuliani transition team. This strategy was "to quickly make the budget cuts that would both restore fiscal balance and make targeted but substantial business tax cuts possible." It sounds like the old supply side economics applied locally—and is just about as credible, or as specific.

THE FUTURE ONCE HAPPENED HERE
By Fred Siegel
The Free Press, $23

In his concluding chapter, Siegel offers an odd metaphor, taken from Evelyn Waugh's *Brideshead Revisited.* On the grounds of an English manor house occupied by the British Army during World War II, Waugh is surprised to find that the soldiers are "quietly rediscovering" an abandoned chapel. Siegel suggests we may find guidance for the future in the abandoned artifacts "lining city streets ... vestiges of a world that *worked.*"

What Siegel seems to be suffering from is a terminal case of nostalgia, for a time that never was. New York, Washington, Los Angeles in the '50s were good places to live and work for some, and bad for others—particularly every kind of minority. As economies and as polities these cities have been battered by the events of the last quarter century, and they have suffered their share of self-inflicted wounds. Washington is suffering particularly from the absence of strong, responsible elected leadership, but 30 years ago Washington was just beginning to emerge from colonial status. Los Angeles 30 years ago was on the verge of a major riot. New York went badly down hill during those years and is on the rise again. Although the reasons for its rise are not readily discernible, they are probably located in the shifting currents of commerce. As Harvey Brooks has observed, "Projections are surprise-free; the future is surprise-rich." And the future is happening all the time.

ADAM YARMOLINSKY *is Regents Professor of Public Policy in the University of Maryland system.*

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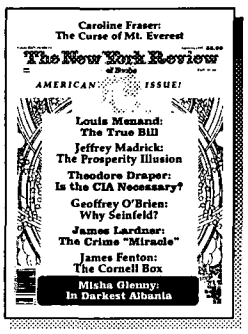

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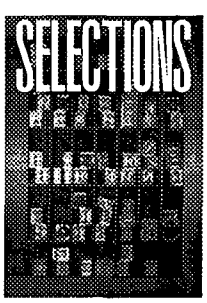

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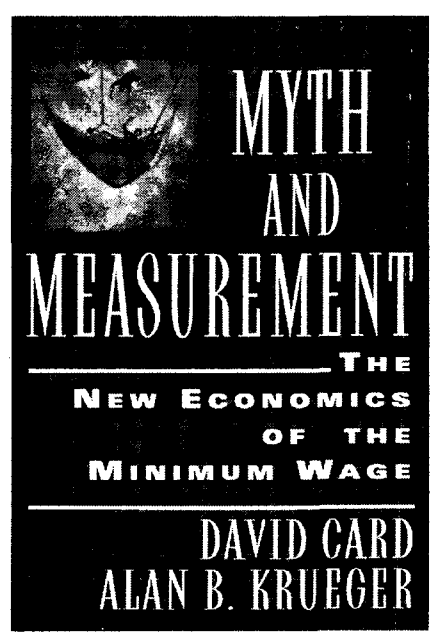

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